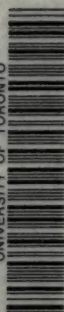


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TO ENCOURAGE THE STUDY AND ADVANCE THE KNOWLEDGE  
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**Select Charters of Trading Companies**

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# Selden Society

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## SELECT CHARTERS OF TRADING COMPANIES

A.D. 1530—1707

EDITED  
FOR THE SELDEN SOCIETY

BY

CECIL T. CARR  
OF THE INNER TEMPLE AND WESTERN CIRCUIT  
BARRISTER-AT-LAW

LONDON  
BERNARD QUARITCH, 11 GRAFTON STREET, W.  
1913

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## PREFATORY NOTE BY THE SECRETARY

This volume is issued as an extra volume for 1913 in addition to 'The Eyre of Kent,' Vol. III. It is hoped that the production of an additional volume may from time to time be repeated so far as practicable.

H. S. M.





## PREFACE

THE forty-one grants which form the text of this book are taken from the Patent Rolls. With three exceptions<sup>1</sup> they are grants of formal incorporation. They cover a period which ends with the South Sea crisis.

Many interesting charters are omitted because they have already been reprinted.<sup>2</sup> References to these are made in the following Introduction. It attempts to sketch the general development of trading charters in England as well as the rise of particular companies. Its several sections, dealing with the corporateness conferred upon discoverers, foreign traders, inventors, planters, miners, manufacturers, and others, were substantially advanced before Dr. W. R. Scott's volumes on 'The Constitution and Finance of English, Scottish, and Irish Joint-Stock Companies to 1720' were available. Much financial detail of various joint-stock undertakings has been omitted here since the issue of that exhaustive work, of the value of which the Editor desires to make the fullest acknowledgment. He is also indebted to the publications of Dr. Cunningham, to Mr. Hyde Price's essay on 'English Patents of Monopoly,' and to Sir Frederick Pollock, Mr. James G. Wood, and Mr. W. G. Collingwood for help at various points.

Thanks are due to those representatives of surviving companies who were at the pains to answer inquiries. Finally, grateful mention must be made of the assistance courteously given by Mr. Hilary Jenkinson and others of H.M. Record Office.

<sup>1</sup> Merchants of Andalusia (1530): York Buildings Concession (1675): Fire Office (1688).

<sup>2</sup> For example, all the East India, some of the Levant, and many of the American plantation charters.

The following abbreviated references are used in footnotes :—

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*Hakluyt* . . . . Principal Navigations, Voyages, Traffiques and  
Discoveries of the English Nation : Glasgow  
Edition (12 vols.) of 1903.  
*N.E.D.* . . . . New English Dictionary : Clarendon Press.  
*Pollock and Matland* . History of English Law, 1898 Edition.  
*Rymer* . . . . Foedera, 1704 Edition.  
*S. P. Dom.* . . . . State Papers, Domestic.  
*Scott* . . . . The Constitution and Finance of English,  
Scottish, and Irish Joint-Stock Companies  
to 1720, by W. R. Scott : Camb. Univ.  
Press.



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## I

Of the selected charters<sup>1</sup> printed in this volume the earliest is one issued by King Henry VIII. A glance at some previous examples shows that at the close of the fourteenth century bodies of Englishmen trading abroad desired and received privileges of self-government and of local jurisdiction. In 1391<sup>2</sup> Richard II. empowered the English merchants in Prussia to meet and elect a governor,<sup>3</sup> who was to rule over the traders, do speedy justice, settle disputes and award compensation. Reasonable ordinances, *pro meliori gubernatione*, made in proper form with the common assent, were confirmed; and all and singular the said merchants were bidden to be helpful.<sup>4</sup> Within the

<sup>1</sup> The differences in the opening address *omnibus ad quos* etc., and the closing words, *In cuius rei* etc., *Teste me ipso* etc., which mark off letters patent from the more formal charter, need not here be discussed. In the title and introduction of this book the word 'charter' is used in a general sense.

<sup>2</sup> See the charter printed in Rymer, *Foedera*, vii., p. 693. See Hall, *Hist. of Custom Revenue*, i., c. 1.

<sup>3</sup> The Latin words or their English

translation grow familiar: *loco competentis et honesto se congregare et unire et quandam personam idoneam et sufficientem in gubernatorem suum . . . eligere et obtinere . . . libere et impune* (see post, pp. 2, 8, etc.). The election of one John Beys (already unanimously chosen by the merchants) was confirmed.

<sup>4</sup> *Intendentes consulentes et auxiliantes*. Later the word *obedientes* is added to the phrases *de intendendo*.

following twenty years Henry IV. gave similar privileges<sup>1</sup> to the Hanse merchants,<sup>2</sup> and to the merchants trading to the Netherlands<sup>3</sup> and to Norway.<sup>4</sup>

The clauses contained in these grants reappear in later charters. They reveal the development of national commerce along lines which were familiar in municipal life. 'For better government,' *ob defectum boni et sani regiminis*, certain powers are required. In fact a system of gildlike control is being applied to foreign trade. Ships sailed in fleets under an admiral;<sup>5</sup> traders needed to agree as to how, when and where goods should be sold, what quality of goods, and at what price. Merchants trading overseas to a particular country thus tended to become an ordered aggregate. Organisation, founded partly upon inevitable self-government partly upon royal condescension, was the result. For many generations despite the protests of private traders, our foreign trade was to be 'regulated.'<sup>6</sup> Incidentally the machinery of taxation, as well as the control of bullion and of the quality of merchandise, was assisted by restricting ports and marts and by placing commerce in responsible hands. As the history of the Steelyard and of other groups of foreign merchants in England shows, even aliens were encouraged to organise themselves; the King proved often more tolerant than his subjects to bodies which were capable of assessment.

It is some time, however, before grants to merchants contain words indicative of incorporation proper. In the fourteenth century the King in his charters to boroughs had been granting *quod iidem burgenses communitatem inter se habeant*.<sup>7</sup> When the Edwardian Statute of Mortmain was extended to include 'Mayors, bailiffs, and commons of cities boroughs and other towns which have a perpetual commonalty,'<sup>8</sup> cities and boroughs were impelled to ask for charters which would permit the holding of land.<sup>9</sup> Clauses being readily copied, municipal

<sup>1</sup> The disciplinary power is added *contrarios, rebelles, vel inobedientes iuxta quantitatem delicti sui in hac parte rationabiliter puniendi*. Later forms of this clause may be seen *post*, at p. 12.

<sup>2</sup> 1404: Rymer, viii., p. 360.

<sup>3</sup> 1407: Rymer, viii., p. 464.

<sup>4</sup> 1408: Rymer, viii., p. 511.

<sup>5</sup> Compare the instructions of S. Cabot (printed by Hakluyt, ii., pp. 196-7), and see Sir J. Hawkins' advice as to sailing in fleets in the Levant (*S. P. Dom.*, Eliz., cccxxix. 124: cf. ccxi. 12, 13).

<sup>6</sup> See *post*, pp. xxi.-ii.

<sup>7</sup> See the Hedon grant in 1348 (Gross,

*Gild Merchant*, i., p. 93; ii., p. 107) and other instances collected by Gross (*ibid.*, i., pp. 93-5), who considered Coventry to be the earliest example (1345). See Maitland, *Introduction to Cambridge Borough Charters*; and various collections of town charters.

<sup>8</sup> 15 Ric. II. c. 5.

<sup>9</sup> See the case of Plymouth in 1411 (*Rot. Parl.*, iii. 363) noticed by Gross (*op. cit.*, i., p. 94 n.): the townsmen wanted to be *un corps corporat pur purchaser franc tenement a terme de vie ou en fee sans licence royal*.



groups were thus brought into line not only with other municipal groups<sup>1</sup> but also with religious bodies. Words betokening corporateness began to become common.<sup>2</sup> Of Englishmen travelling overseas, our countrymen in Pisa in 1490 were made a corporation with various powers of self-government.<sup>3</sup> Meanwhile at home in England scholarship was being furthered by the foundation in perpetuity of *collegium*, *aula*, *domus* and *schola*.<sup>4</sup>

Gradually those 'incidents of corporateness' enumerated by Blackstone became matters of common form,—the right of perpetual succession, of suing and being sued, of having a common seal, of dealing with lands and of making by-laws.<sup>5</sup> Although these rights were, in Coke's words, 'tacite annexed of course' to any grant of corporateness, they are set out at length in charters of incorporation. They do not appear expressly in the Merchant Adventurers' charter of 1505<sup>6</sup> or in Henry VIII.'s gift of privileges to the merchants of Andalusia;<sup>7</sup> but Elizabeth gives them *in extenso* to the Merchant Adventurers in 1564.<sup>8</sup> From her reign onwards the outlines of an incorporation of traders begin to be fixed. Details may differ in successive reigns; something of the character of successive generations—and even of the personality of successive sovereigns—seems to be legible between the lines. Ignoring the model terseness of the ordinances of the Interregnum,<sup>9</sup> the style tends always towards length; there is repetition and a feeling for stately pleonasms;<sup>10</sup> there is no definition clause, no 'hereinafter

<sup>1</sup> Cf. the instances collected by Gross of affiliation of boroughs.

<sup>2</sup> *Communitas perpetua, corpus politicum et corporatum*, or some similar phrase.

<sup>3</sup> See an Indenture between England and Florence, printed by Rymer, xii., pp. 389–93: *Quod licebit dictis subditis Regni Angliae in dicta civitate Pisarum habere et facere unum integrum corpus ut sint invicem corporati habeantque unum vel plures magistrum vel magistros etc.* Provision is made for a *domus* for them, *si in una aliqua domo omnes vel aliqui simul morari voluerint*. In 1486 (*ib.* p. 314) a *consul et praesidens* had been appointed there *per experimenta aliarum nationum*, with such powers as the post carried locally, and with the right (*quia dignus est operarius mercede*) to take  $\frac{1}{4}$  ducat per 100 ducats.

<sup>4</sup> See *post*, p. cxxxiv.

<sup>5</sup> *Commentaries*, i. 475, following the *dicta* in *Sutton's Hospital Case*, 10 Rep.

<sup>6</sup> *Patent Rolls*, 21 H. VII., pt. i. (printed by Cawston and Keane, *Early Chartered Companies*, pp. 249–54).

<sup>7</sup> See *post*, pp. 1–3.

<sup>8</sup> *Patent Rolls*, 6 Eliz., pt. xii. (printed by Prothero, *Statutes and Constitutional Documents*, 1558–1625, pp. 461–4).

<sup>9</sup> See *Acts and Ordinances of the Interregnum*, i., pp. 310–11 (Merchant Adventurers); 395–6 (Levant Company: see *post*, p. xli. (8)). Shephard, writing *Of Corporations, Fraternities and Guilds* in 1659, gives various precedents of charters of the Protectorate, but points out how much is superfluous and unnecessary. See Henderson, *Royal Hist. Soc. Trans.*, 1912, p. 129.

<sup>10</sup> For example, 'to die or decease out of this transitory life' (*post*, p. 8). Many phrases ring familiarly: 'Assemble and meet together'; 'the safety honour and glory of our Kingdom.' Favourite rhythms in Latin as well as English doubtless influenced sentences.

called the Corporation'; an abbreviative '*mutatis mutandis*'<sup>1</sup> or an 'except before excepted'<sup>2</sup> is a rarity. Form nevertheless is constant. Turn from the Elizabethan grants to the Victorian. In the incorporations of British North Borneo,<sup>3</sup> of Nigeria,<sup>4</sup> of British East Africa,<sup>5</sup> and Rhodesia<sup>6</sup> the modern grant follows the old. Petitioners are still reciting their past industry and expense, still pleading that their enterprise will be greatly advanced by a royal charter, still recounting their patriotic designs for commerce, civilisation<sup>7</sup> and good government. Still the Crown, considering the petition and satisfied that the enterprise deserves encouragement, by its prerogative royal, and of its especial grace, certain knowledge, and mere motion, endues the grantees with the old incidents of incorporation. There is still provision for holding land, for local jurisdiction, and for relations with friendly countries, still a clause for favourable construction, and a reservation of power to revoke the grant. Governors, officers and consuls are still to acknowledge the charter and 'be aiding.'

## II

Considering our merchants' independence of the common law, considering the instinctive and well-nigh universal application of partnership to business, and considering the prosperous continuity of unchartered and unincorporated bodies such as the Inns of Court, we may wonder why subjects sought, and why kings insisted upon, grants of corporateness.

As we have seen, groups of merchants desired authority to govern themselves. In days when it was an accepted tradition to supervise production, regulate employment and exclude competition, they wanted the power to meet, to elect their own officers,<sup>8</sup> and to make

<sup>1</sup> Occurring, for example, in the South Sea, Bank of England, and National Land Bank charters.

<sup>2</sup> See *post*, p. 148.

<sup>3</sup> In 1881: see charter in Hertslet, *Collection of Treaties and Conventions*, xv., p. 85.

<sup>4</sup> National African (Royal Niger) Company, 1886: Hertslet, xvii., p. 118 (see revocation, *ibid.*, xxi., p. 249, and statute 62 & 63 Vict., c. 43).

<sup>5</sup> 1888: Hertslet, xviii., p. 82.

<sup>6</sup> British South Africa Company, 1889: Hertslet, xviii., p. 133.

<sup>7</sup> The new grants differ from the proselytism of the old: slavery is to be

abolished, but the religions of natives are not to be interfered with, except in the interests of humanity.

<sup>8</sup> Herbert gives examples of interference with the City Companies' choice of officers (*Livery Companies*, i., pp. 167-74). Cf. Charles II.'s *quo warranto* proceedings against the City (*ibid.*, pp. 212-219, and *post*, p. xlii. (1)). When the Merchant Adventurers voted against a royal nominee in 1637, Charles, 'considering the manifold inconveniences that may arise by the use of balloing-boxes,' forbade their future use by corporations (*S. P. Dom.*, Car. I., ccclxvii., 84-5).



rules to bind one another, to assess for common expenses and to settle their own disputes. If they were to avoid the offence of unlawful assembly,<sup>1</sup> or of administering or swearing illegal oaths,<sup>2</sup> if they wanted to trade overseas, to depart from the Realm,<sup>3</sup> to take out ships and men,<sup>4</sup> goods and bullion,<sup>5</sup> it was as well to have the royal permission in writing. The caution of the parties found, or borrowed, phrases of supposed value. The *quantum in nobis est* hardly appears in the charters hereafter printed<sup>6</sup>; but from the fourteenth century till to-day the grant is *de gratia speciali* (implying not contract but royal bounty which might have been withheld), *ex certa scientia* (avoiding any consequences of false suggestion), *ex mero motu* (not in answer to a petition but in generous recognition of merit).<sup>7</sup> From the year 1399 petitioners who failed to 'make express mention in their petitions of the value of the thing to be demanded' were to have their letters patent avoided and annulled.<sup>8</sup> This provision evoked for dispensation the familiar *Eo quod* etc.<sup>9</sup> Other dispensations from statutes and from the exactions of fees and fines were evolved by the petitioner. As for merchants, while they were asking for a favourable

<sup>1</sup> 'Mr. Attorney did well observe,' says Jeffreys in *Sandys' Case*, that numbers of people could not meet to traffic or merchandise without being in danger of being punished as unlawful assemblies (Cobbett, *State Trials*, x., p. 524). The Dutch weavers at Colchester, thus indicted, received (*Patent Rolls*, 10 Jac. I., pt. xv.) power to 'use assemblies and congregations' without molestation. They were not incorporated by the patent, though they are styled a 'Corporation or Congregation' by the Act of 12 Car. II., c. 22. (Similar power *sans* incorporation is mentioned *post*, p. 79.) Compare the earlier hostility to merchant strangers in London, who were not to keep houses or societies by themselves (see London Charter of 1376). Compare the proceedings, *post*, p. lxxvi.

<sup>2</sup> 'An high contempt' (3 *Inst.* 165: see *R. v. Eadon*, 31 St. Tr. 1069).

<sup>3</sup> Coke thought that merchants might at law pass the sea without licence (3 *Inst.* c. 84; *Dyer*, f. 296). The Act of 5 Ric. II. (requiring licences from all but the great persons of the Realm, true and known merchants, and the King's soldiers) was named with respect by a Chief Justice in 1604 (*S. P. Dom.*, Jac. I. xi. 19). For

an example of express dispensation from the Statutes of Fugitives see Raleigh's grant of 1584 (*Patent Rolls*, 26 Eliz., pt. i.: see *post*, p. xxxvii.).

<sup>4</sup> See the clauses, *post*, pp. 37, 57, and 103.

<sup>5</sup> Special licence was required for bullion until 15 Car. II., c. 7, s. 9.

<sup>6</sup> See, however, *post*, pp. xxiv., 19, 113.

<sup>7</sup> See *Alton Wood's Case*, 1 Rep. 51b; *Brunton v. Hawkes*, 4 B. & Ald. 553; *Legat's Case*, 10 Rep. 112, and others cited in Collier, *Patents* (1803), App., pp. 33-5. Coke said *mero motu* was added to meet the statute of 4 H. IV., c. 4. Mention of a petition was supposed to diminish the force of these words (*Case of Mines*, Plowden, 337); but later charters are frequently based on petitions. Cf. the words in the Papal bull giving America to Spain (see *post*, p. xxviii.): *motu proprio non ad vestram vel alterius pro vobis super hoc nobis oblatae petitionis instantiam, sed de nostra mera liberalitate et ex certa scientia ac de apostolicae potestatis plenitudine*.

<sup>8</sup> 1 H. IV., c. 6.

<sup>9</sup> *Eo quod expressa mentio de vero valore annuo aut de certitudine premissorum . . . minime facta existit . . . non obstante*. See *post*, p. lx.



exercise of the royal prerogative (which had an ancient and special force in the government of trade<sup>1</sup>) there was no harm in also asking leave to have a common hall for meetings, or to hold and dispose of lands, nor in ascertaining if any relaxation of customs could be hoped for.<sup>2</sup>

The greater the privileges, the more important to define the persons privileged.<sup>3</sup> That membership of the privileged body was something attainable by inheritance or apprenticeship was a tradition which long survived to give evidence of its municipal origin.<sup>4</sup> However attained and however defined, the membership or 'freedom' needed for its defence some kind of *Zunftzwang*, some authority to exercise pressure, some power of checking the usurpations of outsiders. With these forces shaping its identity, the body needed to appear as a body, to sue and be sued, plead and be impleaded, to arrive at collective decisions by its officers or by the vote of a majority,<sup>5</sup> and to authenticate its collective acts by a common seal.

The body, in short, at many points required permission, recognition and reassurance. Not only would a royal charter be a mark of royal favour and protection, but it would sanction something which the Crown would otherwise regard with jealousy and suspicion. Subjects might claim the right of voluntary association; but emperors and popes, statesmen and philosophers inclined to persecute the unauthorised group which set up *imperium in imperio*.<sup>6</sup> In England some groups which had acted in corporate fashion stood in jeopardy when challenged

<sup>1</sup> See *Y.B.*, 40 Ed. III. 17, 18; and Coke's 'Notes of Prerogative,' *S. P. Dom.*, Eliz., cclxxvi. 81.

<sup>2</sup> The East India merchants in 1599 asked for incorporation, freedom for their ships to sail and to take bullion, and relief from customs (*Court Book*, i., 25 September).

<sup>3</sup> Thus it would have been important to define the membership of Oxford and Cambridge Universities, Winchester and Eton Colleges, and the Cinque Ports, for purposes of exemption under the Subsidy Act, 5 H. VIII., c. 17, ss. 10, 11.

<sup>4</sup> See the words in charters, *post*, at pp. 67-70, 81, 105. See Lingelbach, *Royal Hist. Soc. Trans.* (n.s.), xvi., at p. 25 (citing Wheeler). In the proposed Cathay Company (see *post*, p. xxxiv.) all male children and heirs of patentees were to be

admitted gratis, childless members having power to assign.

<sup>5</sup> See the *Fernes Case*, Davys' Rep., 48a, and Maitland, *Political Theories* [Gierke], pp. 64, 165-7: cf. statute, 33 H. VIII., c. 27; but see the insistence on unanimity, *post*, p. 26, probably under influence of partnership.

<sup>6</sup> See Carr, *General Principles of the Law of Corporations*, pp. 164-172. The papal authority, asserted in respect of the creation of *universitates*, controlled not so much the right to associate as the right to teach. From 1515 to 1550 our guilds, fraternities, brotherhoods, commonalties, mysteries and companies were rated for subsidies alike whether corporate or not corporate (see Subsidy Acts, 6 H. VIII., c. 26, down to 7 Ed. VI., c. 12). One inconvenience of their being unincorporated is attacked by 23 H. VIII., c. 10.

to show 'by what warrant' they presumed so to act. The defence of prescription or the fiction of a lost grant<sup>1</sup> hardly saved them. It is true that experiments were made in permissive corporateness. To encourage benefactors an Act of Elizabeth authorised the automatic incorporation of all hospitals or houses of correction which should be founded within twenty years.<sup>2</sup> In Scotland a similar course was taken to stimulate fishery and textile manufacture.<sup>3</sup> But the broadcast offering of a blank form of corporateness was not yet to be an accepted principle. Incorporation remained particular, not general; a body politic needed either a statute or a royal patent of its very own. The magic value of a charter was strangely proved at the beginning of the eighteenth century. As the symbol and source of corporate life, it was, even after that life had ended, precious to the promoter of bubble projects. The charter of a dead mining company served as a magnet to attract money for schemes of insurance.<sup>4</sup>

Among trading groups which desired continuity, 'perpetual succession' gave the corporation much advantage over the partnership. The first East India merchants asked the Council to grant 'a privilege in succession and to incorporate them in a company, for that the trade of the Indies, being so far remote from here, cannot be traded but in a joint and united stock.'<sup>5</sup> The partners in the Society of the Mines Royal wanted to be incorporated, 'thereby to avoid divers and sundry great inconveniences which by the several deaths of the persons above-said or their assigns should else from time to time ensue.'<sup>6</sup> The petitioners of later reigns emphasise another point. They say<sup>7</sup> they require a joint stock 'so great that the same is not to be raised unless upon the establishment of a corporation, because, if such an undertaking should be carried on only by articles of partnership, the stock will be liable to the particular and private debts of the several partners

<sup>1</sup> No doubt grants were honestly lost sometimes. The Adventurers for the Discovery of New Trades petitioned (see endorsement on *Patent Rolls*, 1 & 2 P. & M., pt. iii.) that their patent was 'lost or destroyed in the late dreadful fire of London.' Compare the Honourable Artillery Company's application in 1829 (see *Patent Rolls*, 29 H. VIII., pt. v.). A Southampton charter was burnt (*quia carta illa casualiter est combusta: Patent Rolls*, 14 Ed. III., pt. i.). See also the Bristol Soapmakers' grant (*Patent Rolls*, 5 W. & M., pt. v.) after loss of an original of 1 Ed. VI. The Newcastle Merchants' charter had a strange adventure in 1672 (Surtees Soc. 93, p. 216).

<sup>2</sup> 39 Eliz., c. 5.

<sup>3</sup> See *Acts of Scotland*, vii. pp. 253, 259 (*post*, p. cv. (4)).

<sup>4</sup> See *post*, pp. cxx., cxxx.

<sup>5</sup> See *ante*, p. xvi. (2).

<sup>6</sup> See *post*, p. 5. (*Inter mercatores there was no jus accrescendi*). Cf. *post*, p. 19, though a later charter seems granted on the ground of the deaths of original shareholders and their assigns, and the consequent difficulty of ascertaining who were corporators (see *post*, p. 44).

<sup>7</sup> The formula becomes common. The words printed above relate to a proposed company for making pitch and tar in 1692 (*Petition Entry Books*, 235, pp. 317, 334). Cf. *post*, pp. ci. (13), cii.



and subject to be torn to pieces upon the bankruptcy of any of them.' <sup>1</sup> Continuity of management was desirable. The undertakers of the Bedford Level Draining scheme pointed out that their operations were, and would continue to be, on such a scale that only a corporation could fitly carry them out. <sup>2</sup> Power to make rules affecting the public was another necessity urged by petitioners for corporateness. <sup>3</sup>

To the rule that a corporation is—in Coke's word—'immortal,' there are exceptions which range from the first East India Company <sup>4</sup>

<sup>1</sup> Attempts to visit the debts of corporations upon their members raised difficulties of corporate appearance (see *Y. B.*, 19 H. VI., 80, a case of two of the Society of Lombards), especially if there were no corporate assets (see *Curson v. African Co.* (1682), 1 Vern. 121). An effort was made against members of the Woodmongers' Company after its dissolution upon *quo warranto* (see *Naylor v. Brown*, Finch, 83; *Edmunds v. Brown*, 1 Lev. 237). The Merchant Adventurers were sued (corporately and individually) upon a bond in 1671, and their usage of levying assessments upon members was set up against them. It was ordered that, if the company did not pay, its proper officers should levy on the members a sum sufficient for the debt, or be punished for contempt (*Salmon v. Hamburgh Company*, 6 Vin. Abr. 310, see *Hist. MSS. Comm.*, 9th Rep., pt. ii. p. 47, and *Harvey v. East India Co.*, 2 Vern. 396). The 'leviations,' by which 'regulated' companies met common expenses (cf. *post*, pp. 1-2, 91-2, 164, and *Inner Temple Records*, i., p. 388), are in effect like the calls (sometimes limited, see *post*, p. lxxxvi (6)) on joint-stock shareholders. In 1622 members of the Virginia Company were in some doubt owing to the confusion between a full personal liability and this liability to leviations. One member 'could not be persuaded but that each member of the company (upon grant of the seal for security) was bound to make this good out of his own private estate.' There was an instance 'lately happened unto the Muscovia Company, who being indebted long since and having given their seal for security, divers brothers of that company were troubled and sued for the same.' Lawyers' opinions were vouched on either side (*Records of the Virginia Company*, Kingsbury, ii., pp. 165,

166, 206). In 1655 the East India Co. Governor, 'because his name is used in all suits and actions,' obtained an indemnity from the company (*Court Book*, xxi., p. 279). The Indenture which settled the sums and rents due to the King from the Starchmakers' Company (*Patent Rolls*, 20 Jac. I., pt. x.) provided that no such sums 'shall in any sort be demanded, levied, recovered or had but only of the body corporate . . . and of and upon such goods and chattels, lands and tenements only as they, the said [Corporation], have or hereafter shall have in the right of their said Corporation, and not of upon or against the body or bodies of any particular member or members,' or the goods belonging to members 'in their natural capacity.' Particular members were not to be imprisoned or restrained over such sums or rents: if they were, they might plead the Indenture in their discharge. Adventurers in the E. I. and Guinea Companies and in the Royal Fishing Trade were exempted from the bankruptcy statutes by 14 Car. II., c. 24. Some information as to personal liability in medieval trading bodies is collected in Mr. Mitchell's *Law Merchant*, chapter 5.

<sup>2</sup> *Patent Rolls*, 9 Car. I., pt. xviii. The charter recites that individuals die and leave infant heirs, wives, and others unfit for the conduct of the works; the result is otherwise than if *eorum erogatio et premissorum continuatio quorundam virorum discretorum politice corporatorum successionem perpetuam habentium cure incumberet*.

<sup>3</sup> See the New River charter, *post*, p. 110.

<sup>4</sup> *Patent Rolls*, 42 Eliz., pt. vi., printed by Prothero, *Statutes and Constitutional Documents*, 1558-1625, at p. 448; cf. the Levant charter, printed *post*, pp. 30-43).



to the Bank of England.<sup>1</sup> They were cases where exclusive powers were conceded of such an unusual or experimental nature as to require periodical revision. In charters of this kind the ordinarily recurrent words 'perpetual' and 'for ever' were dropped;<sup>2</sup> but provision for extending the term was often made.<sup>3</sup> Alternatively, where it was felt necessary to keep a tight hand over the company, charters which imposed no time limit often contained provisos for termination upon warning from the Crown.<sup>4</sup>

In the course of the seventeenth century some form of continuous organisation with transferable shares<sup>5</sup> and limited personal liability<sup>6</sup> was a commercial need. Among those whose desire for incorporation was balked by the expensive formality of obtaining a charter or Act of Parliament there grew up a new type of company based upon contract. 'There were large societies on which the sun of royal or legislative favour did not shine, and as to whom the whole desire of the associates, and the whole aim of the ablest legal assistance they could obtain, was to make them as nearly a corporation as possible, with continuous existence, with transmissible and transferable stock, but without any individual right in any associate to bind the other associates, or to deal with the assets of the association.'<sup>7</sup> Something could be achieved by an Indenture, as may be seen by comparing, for example, Sir Humphrey Mackworth's Deed of Settlement for working mines in Wales<sup>8</sup> with the charter of the Mine Adventurers' Company.<sup>9</sup> But without incorporation there was constant trouble in suing debtors, in settling disputes between member and member,

<sup>1</sup> *Patent Rolls*, 6 W. & M., pt. vi. The incorporation of the Norwich Worsted Weavers under the Interregnum (*Acts and Ordinances*, ii. 451-5) was for three years only. In 1837 the Crown was empowered (7 W. IV. & 1 Vict. c. 73, s. 29) to incorporate for limited terms; see 47 & 48 Vict., c. 56, as to power to renew.

<sup>2</sup> See the Levant Charter, *post*, p. 42 (but note 'for ever henceforth' and 'at all times hereafter' at p. 32). The usual words 'and their successors' are largely omitted.

<sup>3</sup> See *post*, p. 42; cf. p. 207.

<sup>4</sup> See *post*, pp. 42, 77, 97, 122, 136, 185, 230, 240, 263; also *Eastern Archipelago Co. v. The Queen*, 2 E. & B. at pp. 869-871, and the controversy about the clause in 1704, *Acts of the Privy Council (Colonial)*, 1680-1720, p. 467.

<sup>5</sup> Apparently at common law an association was not illegal because it 'assumed'

to have transferable shares (*Re Mexican and South American Mining Co.*, 27 Beav., see judgment at pp. 480-1 and cases cited in argument). Earlier opinion was more hostile (see *Josephs v. Pebrer*, 3 B. & C. 639; *Duvergier v. Fellows*, 5 Bing. at p. 267; *Blundell v. Winsor*, 8 Sim. at p. 613); the Bubble Act accounts for many such decisions. At the creation of some corporations, efforts were made to restrict gambling in their shares: see *post*, p. cxxvii. (5).

<sup>6</sup> See *ante*, p. xviii. (1)

<sup>7</sup> *Per James, L.J., Baird's Case*, 5 Ch. at p. 734; compare 1 Ch. D. at p. 320.

<sup>8</sup> *Close Rolls*, 10 W. III., pt. xiii, reciting that the mines would be very valuable if duly managed, 'which would not be unless a greater number of persons were concerned in interest together with' the promoters. See *post*, p. ciii.

<sup>9</sup> See *post*, pp. 243-8.

and in regulating personal responsibility. Harassed by the vindictive and futile Bubble Act of 1720, joint-stock enterprise had to wait till the middle of the nineteenth century before corporateness 'for any lawful purpose' could be obtained by the simple process of registration, and personal liability be limited by one magic word.

Such were some of the general reasons which, before the days of Companies Acts, made corporateness a privilege and a prize. Among the pious and kingly purposes of particular incorporations the sovereign was wont to enumerate such matters as the good government and ordering of trade, the reform of frauds and abuses, the spread of religion, the reward of discovery or invention, the encouragement of shipping or tillage, the benefit of home manufactures, the keeping of money in the country, and the saving of poor relief by the 'setting on work' of the unemployed.

### III

The early companies of English merchants trading abroad were (like those concerned with industry at home) careful of men as well as of money. The members were brothers:<sup>1</sup> religion (not without some ritual) and mutual assistance long continued to inspire them;<sup>2</sup> they had oaths for officers and freemen, and they maintained a quasi-collegiate discipline comparable to that of the universities or Inns of Court.<sup>3</sup> Although their constitution might be exclusive, there was within the circle a fair chance for all.<sup>4</sup> In the 'regulated' companies

<sup>1</sup> The word 'brother' (familiar still in the Corporation of Trinity House and among benevolent and convivial associations) passed easily from gild to trading company (see an instance, *ante*, p. xviii. (1)).

<sup>2</sup> See *post*, p. xxiii. Note, for example, Sebastian Cabot's rules for brotherly love and religion for the expedition of 1553 (Hakluyt, ii., p. 195). In Gilbert's company (*post*, p. xxxvi., and cf. p. xeviii. (7)), members were to meet 'about eight of the clock in the morning, and, after some divine service or sermon had and heard,' elect eight assistants, etc. Our merchants carried their religion with them: see *post*, p. 1, for the Spanish example. The Levant merchants maintained preachers at Constantinople, Aleppo and Smyrna (see Epstein, *Levant Company*, p. 7). Cf. the provisions in the East India and South Sea charters, *post*, pp. liv., lv., cxxix. (3).

<sup>3</sup> Thus the Merchants of the Staple lived at Calais in licensed lodgings (see Malden, *Cely Papers*, p. xxxix.); for the practice 'of hosting,' see Dendy, Introduction to *Records of the Company of Hostmen* (Surtees Society, cv.); often the hours by which apprentices must be in at night were specified (see Sellers, *Acts and Ordinances of the Eastland Company*, p. 27); for a *domus* of merchants, see *ante*, p. xiii. (3); and compare the life in the Steelyard in London.

<sup>4</sup> The Barbary merchants in the time of Elizabeth said that experience was in favour of restricting individual trade 'lest the wealthy should oppress the younger and meaner sort—and so is it used with the Merchants of the Staple and Merchants Adventurers' (*S. P. Dom.*, Eliz., clviii. 85; see *post*, p. xlii.).



each member could trade (like a barrister on his circuit) for his own hand, provided he observed certain regulations framed in what was considered the common interest. Such companies were essentially distinct from the 'joint-stock' companies. The latter, bound together for business rather than benevolence, originated in the cities of Italy<sup>1</sup> and spread northwards as the increasing power, opportunity and habit of investing capital outstripped the simpler forms of partnership and association *en commandite*,<sup>2</sup> and as the prejudice against usury gradually disappeared.<sup>3</sup> In the 'joint-stock' company the members traded, not independently, but in one common enterprise for profits distributed in some proportion to capital subscribed. Nevertheless, so far as the charters of incorporation are concerned, the change from the 'regulated' to the 'joint-stock' type is hardly perceptible. In the first charter of the East India Company<sup>4</sup> there is little to show whether the trade is to be on 'regulated' or on 'joint-stock' lines. Almost at the end of the charter comes a proviso for disenfranchising those adventurers who do not deliver to the Treasurer within twenty days their promised subscriptions towards the First Voyage: otherwise the framework is that of a 'regulated' company.

Time wrought little change in the charters of those companies which 'regulated' trade. The grant of Elizabeth to the Merchants of the Staple,<sup>5</sup> who controlled the export of wool and other commodities, and who helped in the collection of the royal customs, follows the usual pattern. So do the charters which she gave or confirmed to the Merchant Adventurers, whose long rivalry with the Hansards ended

<sup>1</sup> For the medieval Italian state loans with transferable shares, see Goldschmidt, *Handelsrecht*, pp. 290-7; see Wiszniewski's account of the famous Bank of St. George (Genoa), and Sieveking, *Genueser Finanzwesen*, ii., pp. 31-40. For the intercourse with Italian merchants see Cunningham, *Growth of English Industry and Commerce*, i., pp. 197-8, 289-90, 423-6; and such examples as Rymer, ii. 705.

<sup>2</sup> For a suggested *commenda* in 1300 see *Select Cases on the Law Merchant* (Seld. Soc.), i., p. 77.

<sup>3</sup> See Endemann, *Studien in der Romanisch-Kanonistischen Wirtschafts- und Rechtslehre*, c. 1; Ashley, *Economic Hist.*, i. pt. 2, c. vi.; and the sentiments expressed in Parliament in 1571, D'Ewes, *Journals of Parliament*, pp. 171-2. Cf. *Select Cases in the Star Chamber* (Selden Soc.), ii., pp. xxxviii.-ix.

<sup>4</sup> See *ante*, p. xviii. (4).

<sup>5</sup> *Patent Rolls*, 3 Eliz., pt. ii (apparently given to avoid consequences of non-user during a recent period of disturbed trade). No earlier charter is recited, the organisation being based on the statute of 1353, 27 Ed. III., st. 2, c. 1) which followed twenty-five years of freedom from staples (see 2 Ed. III., c. 9); but there were earlier privileges (see a grant of 1359 reprinted from the Staple Rolls by Cunningham, *Growth of English Industry and Commerce*, i., p. 623). For the Merchants of the Staple, see *ibid.*, i., pp. 311-7; Brodhurst, *L. Q. R.*, xvii., pp. 56-76; Gross, *Gild Merchant*, i., pp. 140-7, and authorities there cited. The company in 1652 relied on the grants of Elizabeth and James (*Patent Rolls*, 15 Jac. I., pt. vi.); see *S. P. Dom.*, Interreg. xxv., 42, 43. It still existed in 1887 (see its action against the Bank of England, 21 Q. B. D. 160).



in the disappearance of the latter from the Steelyard in 1579.<sup>1</sup> Her patent of 1564 to the Merchant Adventurers of England<sup>2</sup> (with which the grants to local bodies of merchants in Bristol,<sup>3</sup> Chester,<sup>4</sup> York,<sup>5</sup> Newcastle,<sup>6</sup> Hull,<sup>7</sup> and Exeter<sup>8</sup> may be compared) largely repeats and extends an older grant of 1505,<sup>9</sup> which in turn was developed from one of 1407.<sup>10</sup> Gild and chartered company are brought closer through the claim made by the Merchant Adventurers, 'as ancient as Thomas of Becket, their founder,'<sup>11</sup> that they were descended from the Mercers of London.<sup>12</sup> Their sequence of charters, from 1407 onwards, shows gradual progress without striking change.<sup>13</sup> Similarly, in the case of the 'regulated' Eastland Company, the Elizabethan patent<sup>14</sup> is developed from an original of 1408 which provided for the government of the Baltic merchants.<sup>15</sup> When Charles II. gave a further charter, having been 'given to understand that in these late years of libertinism many of the known privileges of the said Corporation have been violated,' he had little to add.<sup>16</sup>

The Eastland Company, apparently called into life by the unanimous desire<sup>17</sup> of all the merchants concerned, had for its object the resistance

<sup>1</sup> Cunningham, *Growth of English Industry and Commerce*, ii., p. 123 onwards.

<sup>2</sup> See *ante*, p. xiii. (8). There was to be a governor and twenty-four assistants, with admission to freedom for every such person 'as they by their discretions shall think meet and convenient.' Such person admitted 'shall be one of the same Fellowship . . . and a lawful member or part of the said body corporate and free of the same.' There were enlarged powers of enforcing obedience to ordinances among both members and outsiders (see *post*, pp. 84-9).

<sup>3</sup> *Patent Rolls*, 6 Ed. VI., pt. iii.; confirmed by statute (8 Eliz.) which, after complaints (see *S. P. Dom.*, Eliz., lxxvii. 35, and (Add.) Eliz., xx. 19), was repealed (13 Eliz., c. 22).

<sup>4</sup> *Patent Rolls*, 1 Mar., pt. xii. (printed by Gross, *Gild Merchant*, ii., pp. 360-2).

<sup>5</sup> *Patent Rolls*, 23 Eliz., pt. iv. (printed by Gross, ii., pp. 280-5).

<sup>6</sup> *Patent Rolls*, 1 Ed. VI., pt. iii. (see transl., Surtees Society, xciii., pp. 282-94).

<sup>7</sup> *Patent Rolls*, 19 Eliz., pt. ii. (transl. Lambert, *Two Thousand Years of Gild Life*, pp. 164-7).

<sup>8</sup> *Patent Rolls*, 1 Eliz., pt. iv. (printed by Gross, ii., pp. 87-9), with which compare

*P. R.*, 2 Eliz., pt. xiii. (printed by Cotton, *An Elizabethan Guild of the City of Exeter*, pp. 1-10); see *post*, p. 77.

<sup>9</sup> See *ante*, p. xiii. (6).

<sup>10</sup> See *ante*, p. xii. (3).

<sup>11</sup> *Commons' Journals*, i., p. 221.

<sup>12</sup> *Ibid.*, i., p. 221. It was the 'fellowship of mercers and other merchants and adventurers' of London who in 1496 were frustrated in their attempt to restrict foreign trade by exacting fines 'by colour of a Fraternity of St. Thomas of Canterbury' (statute 12 H. VII., c. 6). Dr. Gross points out (*Gild Merchant*, i., p. 149) that the Mercers and Merchant Adventurers shared the same minute-book till 1528, and the same hall till 1666. See Herbert, *History of the Twelve Livery Companies*, i., p. 232.

<sup>13</sup> See the collection in *Patent Rolls*, 12 Car. II., pt. xxv.; also in *S. P. Dom.*, Car. II. xxvii. See *post*, pp. 84-90, 97-8, notes.

<sup>14</sup> *Patent Rolls*, 21 Eliz., pt. xi. (printed by Sellers, *Acts and Ordinances of the Eastland Company*, pp. 142-51).

<sup>15</sup> Rymer, viii. 561. See *ante*, p. xii. (4).

<sup>16</sup> *Patent Rolls*, 13 Car. II., pt. x. He merely added that Londoners should not be members unless they were free of the City. Cf. *post*, p. xli. (9).

<sup>17</sup> Compare 'by oon assente,' *post*, p. 1.

of exactions and the suppression of unskilful and disorderly trade. Elizabeth defined the limits of its traffic, saving the rights of the Merchant Adventurers and the Narva trade which belonged to the Russia merchants. She incorporated sixty-four named persons, laid down the qualifications of membership<sup>1</sup> and the conditions of admission,<sup>2</sup> and prohibited unauthorised trade. Being managed largely from London without much local self-government, the company differed from that of Merchant Adventurers. Its medieval care for the conduct of the members and apprentices remains upon record.<sup>3</sup> The members, sworn brothers all, led 'an honest life to the honour of God and good example of other our brethren,' not speaking of any matter in controversy in the absence of the parties, and not seeking to 'allure' one another's customers. Their privileges, in spite of occasional royal support,<sup>4</sup> sank in value when the trade was flung open by statute in 1672.<sup>5</sup>

The regulation of our trade with Spain and France was effected similarly by charters of a fixed type. For better government and the maintenance of a Chapel in honour of St. George at the town of St. Lucar de Baromeda, Henry VIII. gave the merchants trading to Andalusia the right of self-government.<sup>6</sup> To remedy the omissions of the grant,<sup>7</sup> Elizabeth gave a more formal incorporation.<sup>8</sup> She forbade any intermeddling or trafficking by non-members in Spain or Portugal *ab oppido Fontrabie in regno Biskaye per totum litus Hispanie et Portugallie usque ad Barsilonam*, but allowed all to join the company who, having traded thither since 1568,<sup>9</sup> sought admission and paid an entrance fee of five

<sup>1</sup> Members of other companies trading overseas, artificers, handicraftsmen, and retailers were excluded. Easy terms were offered to the west country traders of certain towns.

<sup>2</sup> Fees and fines for admission, redemption, etc., were fixed: power was given to impose taxes on traders and goods for general purposes. For the oaths, see Sellers, pp. 1-6.

<sup>3</sup> See *ante*, p. xx. (3). For the power to dismiss for lewd living, and the Act against 'evil rule of apprentice' (punishing cards, dice, and other misbehaviour), see Sellers, pp. 27, 32.

<sup>4</sup> See the proclamations of James I. and Charles I., Sellers, pp. 151-3, 153-5: Rymer, xix. 130. For the charter of 1661, see *ante*, p. xxii.

<sup>5</sup> See *post*, p. xxxiv. Natives were to

be free of the Eastland Company on paying 40s. only. The charter is saved in the statute 1 W. & M., c. 32, s. 13.

<sup>6</sup> *Patent Rolls*, 22 H. VIII., pt. ii., printed *post*, p. 1 (see confirmation by Charles V., *Letters and Papers, Henry VIII.* (1530), No. 6640).

<sup>7</sup> *Quoniam predictæ littere patentes et concessio . . . tam pro imperfectione earundem quam pro eo quod mercatores predicti, pro defectu plene et perfecte incorporationis, nullam habuerunt potestatem et auctoritatem condendi vel faciendi actus et ordinationes pro meliori gubernatione . . .*

<sup>8</sup> *Patent Rolls*, 19 Eliz., pt. viii. (*per nomen Presidentis Assistentium et Societatis Mercatorum Hispanie et Portugallie*).

<sup>9</sup> This meets the petition of *S. P. Dom.*, Eliz., xcix. 8; see also *ibid.*, 9.



pounds (provided that they were not artificers, retailers,<sup>1</sup> or members of any other society of merchants). She empowered them (*quantum in nobis est*) to arrest the bodies and goods of disobedient traders, who were to be imprisoned in her gaols and not set at large without the company's consent.

When James I. ascended the throne, there was considerable agitation for 'free trade.'<sup>2</sup> In 1605 it was said that certain retailers and shopkeepers were disturbing the trade to the discredit of the charter, 'pretending that the same is not sufficiently authorised and warranted by law, for that the charter granted by the late Queen became void by non-user during the long time of the continuance of the war.' This doubt caused the company to forbear to make any assemblies or execute their charter. The Lord Chancellor, who thought the alleged non-user was a 'strict interpretation, considering that there was no default in the merchants,' asked a committee to report upon the validity of the Spanish charter.<sup>3</sup> The committee (which included Coke) reported two defects: first, that the incorporation should have named the merchants as 'of England or some part thereof trading into Spain and Portugal,'<sup>4</sup> and second, that as the election of a president had been neglected for about eighteen years, the recent confirmation<sup>5</sup> to the President and Society was insufficient, there being no president at the time.<sup>6</sup> They advised a fresh grant.<sup>7</sup> The free traders argued that their cause was based on the law of God, of nature and of nations; the burden of the Spanish wars had fallen upon all, the benefits of peace should not go to the few. Scots and Irish were free; Englishmen should have as much liberty as strangers. Incorporation meant increased prices, decreased customs and shipping, compulsory entrance fees levied upon anyone who 'cannot challenge his freedom by patrimony or service,' the 'enriching of a few and beggaring of many thousands' through the engrossing of an ample trade into a few hands (backed by fine and imprisonment without bail, 'which is not by the laws denied

<sup>1</sup> Compare the controversy of the chartered Chester merchants trading to Spain (see *ante*, p. xxii. (4)), who wanted Walsingham to restrict the retailers from trading, or else allow themselves to be retailers (*S. P. Dom.*, Eliz., cxxix., 52, 53). See Unwin, *Industrial Development in the Sixteenth and Seventeenth Centuries*, p. 77.

<sup>2</sup> See *post*, p. xxxii. As to the Spanish trade and commodities interchanged between the countries, see *S. P. Dom.*, Jac. I. viii. 36, xi. 17.

<sup>3</sup> *Ibid.*, xii., 41.

<sup>4</sup> See the corporate name, *ante*, p. xxiii. (8) (altered accordingly in the Jacobean charter): and compare the point taken against the Levant Co., *post*, p. xxxix. (9).

<sup>5</sup> Dated 30 March, 1604.

<sup>6</sup> For the 'anthropomorphic' analogy see Pollock and Maitland, *History of English Law*, i., pp. 491-2; Maitland, *Collected Papers*, iii., p. 221; Co. Litt. 264 and *post*, pp. cxxxiii. (9), cxxxv. (2).

<sup>7</sup> *S. P. Dom.*, Jac. I., xii. 59.



unto felons'), and the predominance of Londoners in the government.<sup>1</sup> Government itself, they said, was unnecessary, for divers commodities and divers places could not be regulated: the consuls were a needless charge upon the whole trade.<sup>2</sup>

The merchants who favoured corporateness replied that without it they could neither assemble nor make by-laws nor defend their by-laws at law. To have a governor and officers meant better maintenance of ships, better intelligence from Spain, better control of bullion, stronger opposition to exactions and to the oppressions of the Inquisition. The reputation of English goods would improve, and the prices of Spanish and Portuguese commodities would be kept down. The French, Dutch and Scots had their consuls, and the discipline of the consuls would be good for the young traders, who were often found to waste their masters' goods in 'dicing, rioting, and lewd exercises.' Moreover, incorporation would keep out retailers, and avoid overcrowding in the trade. 'Since the peace gentlemen, farmers, trumpeters, attorneys, shopkeepers and all sorts of unskilful people' were finding their way into the trade. There were twelve hundred free of the trade or capable of freedom, of whom one tenth could manage it very sufficiently. Their ignorance was glutting markets, cheapening English and enhancing Spanish commodities, so that 'there hath been more loss than gain in trading thither by £40,000' in the past year.<sup>3</sup>

Corporateness won the day,<sup>4</sup> though the Act for free trade with Spain, Portugal and France<sup>5</sup> made the privilege shortlived. Fifty years later the Levant Company described the Spanish trade as the most miserable of all others, 'and all through want of government.'<sup>6</sup>

<sup>1</sup> 'By consequence, whatsoever the Londoners conclude, all must obey though it be to the cutting of their own throats.' The trade 'cannot stay until the Londoners' have a mind to bring them down into the western ports that they may go together in fleets.' Compare the anti-London arguments in *Commons' Journals*, i. p. 220.

<sup>2</sup> Arguments summarised from *S. P. Dom.*, Jac. I., xii. 63. Cf. *post*, p. xlii.

<sup>3</sup> Arguments cited from *S. P. Dom.*, Jac. I., xii. 64, xix. 97, xxi. 2.

<sup>4</sup> See the grant, *Patent Rolls*, 3 Jac. I., pt. vi. Except for the following differences it resembles the French merchants' patent (printed *post*, pp. 62-78). It recites the peace concluded between England and Spain, and the conviction 'that no commerce or liberty can be maintained or

continued without order.' For the analysis of members see *post*, p. 67 (1): there were to be sixty-one assistants (of whom thirty must dwell in places outside London) and a Secretary. The entrance fees were £10 for first year, £15 for second, £20 afterwards. Widows of members, 'during the time only of such their widowhood, shall and may lawfully use and exercise trade and traffic into Spain and Portugal and . . . take apprentices . . . and have all such liberties,' etc., as their husbands had. There was power to appoint consuls, to organise local self-government, punish interlopers, and hold lands to the value of 100 marks a year.

<sup>5</sup> See *post*, p. 76 (1).

<sup>6</sup> *S. P. Dom.*, Interreg. xxiv. 24.

The trade with France was said in 1605 to have 'ever been managed without any kind of government . . . and so it might be still were not the envy and covetousness of those incorporated merchants such that they malign other men's prosperity and greedily thirst after gain.'<sup>1</sup> But it seems that voluntary association had remedied the lack of a charter. 'The time was within our memory'—so ran a petition in 1579—when a few English merchants trading to Bordeaux for wines and to Rouen for canvas 'did by assent and by mutual foresight among themselves agree upon certain orders to be observed among them for the discreet buying of the commodities of that country and for their doing touching the same to the most benefit of the Realm of England.'<sup>2</sup> In those days there were not past seven or eight buyers: they bought wine only of a certain age, condition and treatment. Nowadays there were above seven or eight score buyers, retailers and winedrawers, buying hastily and ignorantly and thus enhancing prices, causing the French to make wine carelessly and include great quantities of water. In this and other commodities unskilful buying caused imperfect production and high prices; moreover, ignorant traders yielded to many customs and exactions which thus became established against all English merchants. For these reasons a charter was demanded, to include only such as had traded before 1570.<sup>3</sup> Apparently, however, no grant was made until after 1606, when a petition of 'merchants trading to Roane' was presented to Salisbury.<sup>4</sup> A treaty had just been obtained<sup>5</sup> and French markets established for English cloth; the merchants pleaded that these matters had involved them in expense above £25,000, which they had incurred 'upon hope to obtain a company' and to have power to charge £3 apiece of all ancient traders and £10 of others thereafter admitted. If the Free Trade Bill were to pass, there would be 'a number of insufficient merchants, one to undo another,' and a great loss of customs.<sup>6</sup> In spite of Parliament the merchants obtained their charter.<sup>7</sup> Their story is further evidence of the constant see-saw between restriction

<sup>1</sup> *S. P. Dom.*, Jac. I., xii. 63.

<sup>2</sup> *S. P. Dom.*, Eliz., cxxix. 50. A list of traders to Normandy (given *ibid.*, 49) shows eighty-two names, including 'Thomas Cordall and Company.' Such firm-names are not as yet frequent. Cf. *post*, p. xlv. (4).

<sup>3</sup> With the concession that if this restricted imports, outside traders might be licensed upon payment of the Society's charges (*S. P. Dom.*, Eliz., cxxix. 50; see the outline of the proposed charter *ibid.*, 51).

<sup>4</sup> *S. P. Dom.*, Jac. I., xxi. 1.

<sup>5</sup> See *post*, p. 63.

<sup>6</sup> The Spanish merchants would trade direct with the Newfoundland fishermen: the Muscovy, Germany, and Eastern merchants would carry direct into Spain: 'and if the mariners be allowed to be merchants, they will deceive the King of one half of his customs.'

<sup>7</sup> Printed *post*, p. 62. For the Exeter merchants trading to France, see *post*, p. 77.



and freedom of trade. The arguments on either side (summarised on the previous page) are common form in the briefs of merchants in other generations and in other trades.<sup>1</sup>

## IV

While the merchants who followed the recognised trade routes of the sixteenth century were being moulded into well-ordered communities upon familiar lines, innovation had been busy elsewhere. The advent of the age of discovery not only enlarged the merchant's opportunities, but also imported into the membership of trading companies the adventurer who was not a merchant, and developed in the charters such elements as the licence to trade to countries unknown and uncivilised, the right to exclude unauthorised rivals by force, and the power to hold<sup>2</sup> and govern distant lands. The delegation of various *jura regalia* ensued. Sometimes the grants take the form of a palatinate,<sup>3</sup> sometimes they concede a kind of feudal viceroyalty,<sup>4</sup> to an individual and not to a company. But in the early experiments the individual—even a Gilbert or a Raleigh—failed.<sup>5</sup> Sole proprietorship found perhaps its most notable example in the days of William Penn.<sup>6</sup>

<sup>1</sup> For the inquiry into the value of 'regulation' in 1622, see Cunningham, *Growth of English Industry and Commerce*, ii., pp. 216–9.

<sup>2</sup> The tenure is usually 'as of our manor of East Greenwich in free and common socage' (compare such diverse examples as Chelsea College, the Newfoundland, New England, Hudson's Bay, New River, and Yarmouth Salt Companies with the grant to the unincorporated Inner and Middle Temple (*Patent Rolls*, 6 Jac. I., pt. xxviii.)). It is sometimes 'as of our Castle at Windsor' (Maryland and Pennsylvania), and 'as of our honour of Hampton Court' (Georgia). Curious incidents include two elks and two black beavers (Hudson's Bay), two elephants (Royal African Company, see *post*, p. 174), two white horses (Willoughby's Guiana grant), one white horse (Avalon), a gold coronet (Carolana), two Indian arrows (Maryland), and two beaver skins (Pennsylvania). H. Gilbert and Raleigh held by homage (see *post*, p. xxxv.). For the payment of one-fifth of gold, etc., see *post*, p. xxix. (1). As to *Quia emptores*, see *post*, p. lxxxviii.

<sup>3</sup> See for example, Baltimore's Avalon

patent in 1623 (*Patent Rolls*, 21 Jac. I., pt. xix.; see further *post*, p. lxxxvii.), *cum omnibus et singulis hujusmodi ac adeo amplis juribus jurisdictionibus privilegiis praerogativis regalitatibus libertatibus immunitatibus juribusque regalibus et franchesiis quibuscumque temporalibus . . . prout aliquis Episcopus Dunelmensis infra episcopatum sive comitatum palatinum Dunelmensem unquam antehac . . . habuit . . . seu de jure habere . . . debuit aut potuit*. Compare general terms in the Newfoundland charter, *post*, at p. 53.

<sup>4</sup> For the grants to Columbus and English explorers, see *post*, pp. xxviii.–xxix. Venice seems at a much earlier date to have imitated her Frankish allies in erecting a kind of feudal government over parts of her empire (see Brown, *Cambridge Modern History*, i., pp. 255–6).

<sup>5</sup> See *post*, pp. xxxv.–xxxvii. In some grants a group received powers subject to the control of an individual. See the Barbary Merchants' grant, *post*, p. xlii.

<sup>6</sup> See *Patent Rolls*, 33 Car. II., pt. i. (printed in *Constitutions, Colonial Charters, etc.*, of the U. S., ii., pp. 1509–15), *post*, pp. lxxxvii.–lxxxviii.



The geographers of the fifteenth century could speculate about legends of Atlantis and St. Brandan's Isle, the Norsemen's Vineland, Brazil, and Antilia, Island of Seven Cities.<sup>1</sup> For seven years Bristol mariners sailed out of Dingle Bay to find the Island of Brazil.<sup>2</sup> Portuguese ships went from Lisbon in search of Antilia.<sup>3</sup> But it was for Spain that Columbus made his supreme discovery, seeking no mythical island in the Atlantic, but setting his course due west from the Old World till he found the New. Spain, accepting the heritage which he offered, granted him in 1492 the admiralty of the ocean and the vice-regalty of the provinces to be acquired by him for the Castilian Crown.<sup>4</sup> The newly discovered regions (subject only to the rights of any Christian communities therein found) were subsequently confirmed to Spain by papal bull.<sup>5</sup> A later bull left Spain and Portugal free to exploit the new world, Spain to sail westward thereto, while Portugal held the eastward route round Africa : in effect the two countries were set back to back on an imaginary meridian line and given the word to start.<sup>6</sup> Then another competitor entered for the race. Our King Henry VII., who had been in negotiation with Columbus at the moment when Ferdinand and Isabella anticipated England,<sup>7</sup> issued letters patent<sup>8</sup> to his wellbeloved John Cabot, citizen of Venice, to Louis, Sebastian and Santius, sons of the said John, and to the heirs of them and every of them and their deputies, empowering them to sail *ad omnes partes . . . maris orientalis occidentalis et septentrionalis sub banneris vexillis et insigniis nostris*, with five ships and the necessary mariners, to seek out unknown heathen lands,<sup>9</sup> and acquire them as vassals and lieutenants of the English Crown.<sup>10</sup> Columbus had set out to plant the flag, with a charge upon his profits and with the obligation to return only to the

<sup>1</sup> See Mr. Payne's account, *History of the New World called America*, i., pp. 72-99.

<sup>2</sup> See the letter of Don Pedro de Ayala to Ferdinand and Isabella in 1498 (*S. P.*, Spanish, i. 210). 'What they have found,' he adds, 'or what they are in search of is what your Highnesses already possess.' In 1480 John Jay sailed from Bristol with Thlyde or Lloyd, the most scientific mariner in England (see Payne, *op. cit.*, p. 99).

<sup>3</sup> See Payne, *Cambridge Modern History*, i., c. 1.

<sup>4</sup> See *ibid.*, p. 22, and the translation of the grant in *Constitutions, Colonial Charters, etc., of the U. S.*, i., pp. 304-5, and in Pinkerton, *Voyages and Travels*, xii., at pp. 54-8.

<sup>5</sup> Printed in *Constitutions, Colonial Charters, etc., of the U. S.*, i., pp. 305-7.

<sup>6</sup> See Egerton, *Origin and Growth of English Colonies*, pp. 30-1.

<sup>7</sup> See Payne, *History of New World*, i., p. 117, for the negotiations with Bartolomeo Columbus.

<sup>8</sup> In 1496: see Rymer, xii. 595, and transl. in Hakluyt, vii., pp. 141-5.

<sup>9</sup> *Ad inveniendum discooperiendum et investigandum quascumque insulas patrias regiones sive provincias gentiliū et infidelium in quacumque parte mundi positas quae Christianis omnibus ante haec tempora fuerunt incognitae.*

<sup>10</sup> *Et quod . . . subjugare occupare et possidere valeant tanquam vasalli nostri et gubernatores locatenentes et deputati eorundem dominiū titulum et jurisdictionem eorundem nobis acquirendo.*

port of Seville. Not otherwise the Cabots were directed to affix the banner of England to the places acquired, to return to the sole port of Bristol and there deliver to the Crown one fifth of their profits in goods or money.<sup>1</sup> Other English subjects were prohibited from frequenting those regions without leave, on pain of forfeiting their ships and goods; finally, all were to be 'aiding and helping the patentees.'

A similar but more elaborate grant was given in 1502 to Hugh Elyot and Thomas Ashehurste, merchants of Bristol, and to two Portuguese, John Gunsalus and Francis Farnandus, their heirs, attorneys, factors or deputies.<sup>2</sup> The powers of navigation, jurisdiction and exclusive trade were fuller than those given to the Cabots,<sup>3</sup> though the territories of the King of Portugal were to be forbidden land. The unlicensed trading of outsiders was prohibited for forty years on pain of forfeiture, forfeited goods being allotted in the moieties (one half to the Crown, one half to the privileged traders) which afterwards became common. The patentees could bring home and sell any merchandise, gold and silver in the mass, precious stones and other goods for five years duty free.<sup>4</sup> Elyot and his three companions, as an additional privilege, received the title (conferred upon Columbus and his heirs by his Spanish grant,<sup>5</sup> and desired by Frobisher for himself and his heirs in Cathay<sup>6</sup>) of admiral in the regions to be discovered.

These grants to persons unincorporated lead up to the charter by which Philip and Mary incorporated a body of which that same Sebastian Cabot was (in consideration of past services) named as the first governor.<sup>7</sup> It dealt with the Russian trade dating from an expedition made to the north-east in 1553 by Willoughby and Chancellor with three

<sup>1</sup> This fraction becomes the regular royalty on profits (see *post*, pp. xxxv., lxxxiii.): later, when the American Companies make grants of land, they similarly reserve one-fifth of the precious metals (see, for example, the grant of New Hampshire by the President and Council of New England to Capt. John Mason, printed in *Constitutions, Colonial Charters, etc., of the U. S.*, i., at p. 1272). The history of the royal claim to gold and silver mines in England is discussed by Lewis, *Stannaries*, pp. 74-8; see *post*, pp. xcvi., c.

<sup>2</sup> *Patent Rolls*, 18 H. VII., pt. ii. m. 2 (Rymer, xiii. 37). The grant refers to, and overrides, a patent given in 1500 to Richard Warde, John Thomas, John Fernandez and the patentees of 1502.

<sup>3</sup> They could sail *ad omnes partes*

. . . *maris orientalis occidentalis australis borealis et septentrionalis*, with unlimited ships; the discovery clause omits the limiting words as to lands previously unknown to Christians. Power is given to make laws, statutes and proclamations, and to deal with rebellion, theft, rape, or murder. There were also powers against intruders (*expugnandi resistendi et guerram levandi eosque capiendi et incarcerandi*: compare the clause *post*, at p. 58).

<sup>4</sup> The Keeper of the Great Seal was ordered to prepare writs of direction to the customs officers: compare the clause, *post*, at p. 41.

<sup>5</sup> See *Constitutions, Colonial Charters, etc., of the U. S.*, i., pp. 304-5.

<sup>6</sup> See *post*, p. xxxiv.

<sup>7</sup> *Patent Rolls*, 1 & 2 P. & M., pt. iii., printed by Hakluyt, ii., pp. 304-16.



ships, of which one (the *Edward Bonaventure*) reached the mouth of the Dvina. The company is perhaps the first example of a joint-stock corporation. 'It was thought expedient that a certain sum of money should publicly be collected to serve for the furnishing of so many ships. And lest any private man should be too much oppressed or charged, a course was taken that every man willing to be of the society should disburse the portion of twenty and five pounds apiece.<sup>1</sup> The charter mentions certain noblemen as having fitted out a voyage of discovery to regions unfrequented, 'which, by the sufferance and grace of Almighty God, it shall chance them, sailing Northwards, Northeastwards and Northwestwards or any parts thereof in that race or course which other Christian Monarchs (being with Us in league and amity) have not heretofore by seas trafficked, haunted or frequented, to find and attain by their said adventure.' The royal inclination to 'animate, advance, further and nourish them in their said godly honest and good purpose and—as We hope—profitable adventure,' expressed itself in the gift of incorporation by the name of *Merchants Adventurers of England for the discovery of lands, territories, isles, dominions, and signiories, unknown and not before that late adventure or enterprise by sea or navigation commonly frequented*.<sup>2</sup> The merchants were to meet, in London or elsewhere, 'as other worshipful corporations of our said city have used to assemble' and make yearly election of a Governor, four Consuls and twenty-four Assistants.<sup>3</sup> The general privileges<sup>4</sup> tend to echo those of older bodies; by-laws could be made,<sup>5</sup> offenders and 'contrarious rebellious or disobedient' persons punished, and a sergeant appointed to levy and gather fines.<sup>6</sup> Powers of sailing<sup>7</sup>

<sup>1</sup> Hakluyt, ii., p. 240. The Barbary merchants (*S. P. Dom.*, Eliz., clvii. 85; see *post*, p. xlii.) cited the Muscovy merchants ('which are not the unexpertest of trade') as 'occupying one entire stock.' See the evidence collected by Mme. Lubimenko, 'Marchands anglais en Russie au XVI<sup>me</sup> siècle,' *Revue historique*, cix. (1912); and see *post*, pp. xxxi. (4), xxxii.

<sup>2</sup> This prodigious title, not always identically repeated, was curtailed by statute, see *post*, p. xxxi.

<sup>3</sup> This number of Assistants (cf. the 24 *Forwardmanni* at Andover in 1458, Gross, *Gild Merchant*, ii., p. 10) reappears in the East India and other companies. See *post*, p. 101 (1).

<sup>4</sup> For example, perpetual succession, power to have a common seal, and to hold and dispose of land ('so that they do not

grant nor alien the same . . . into mortmain without special licence of Us . . . first had and obtained'), to purchase lands (of not more than £66 13s. 4d. clear yearly value), and to plead and be impleaded 'in as ample manner and form as any other corporation of this our Realm may do. Every such person or persons as shall fortune hereafter to be admitted into the said fellowship, commonalty and corporation, shall from the time of his or their admittance be free of the same.'

<sup>5</sup> If not prejudicial to the prerogative, etc., or to any treaties with foreign powers, or to the City of London or any other corporation: cf. *post*, pp. 72, 164, 230.

<sup>6</sup> With power of arrest; cf. *post*, pp. 13–4.

<sup>7</sup> To all regions (without qualification of direction) previously unfrequented (as stated in the corporate name).



under the royal banner, setting up the royal flag and acquiring title for the Crown, are given as in the Cabots' grant. Furthermore, privileges conferred by the Russian Emperor,<sup>1</sup> who in the previous year had shown hospitality and protection to the crew of the *Edward Bonadventure*, were supported by the prohibition of other Englishmen from visiting those parts. The Company was also authorised, if hindered or 'endamaged' by strangers, to resist and 'do their best in their defence.' This Marian corporation received in the time of Elizabeth what was then the rare advantage of having its rights confirmed by Parliament.<sup>2</sup> The statute, which, except for the phrases of enactment, follows the form of letters patent, mentions that the merchants had had their losses, but had found a way to and through the Czar's dominions and over the Caspian Sea, discovering 'very commodious trades into Armenia, Media, Hyrcania, Persia, and other dominions in Asia Minor, hoping by God's grace to discover also the country of Cathaia and other regions very convenient to be traded into.' Parliament being perhaps less ready than the Queen to prohibit outside trading, the exclusiveness of the trade was tempered by an exception which left the Norwegian fishing open to all.<sup>3</sup> Past offenders, too, were leniently treated; <sup>4</sup> and a clause offering terms of admission into the Fellowship to the established traders of Newcastle, Hull and Boston, seems to meet the complaint which was sometimes raised by the merchants of the outports, that London was unduly favoured at their expense. The statute shortened the corporate name to that of *Fellowship of English Merchants for Discovery of New Trades*.<sup>5</sup> To stimulate English industry, all exported cloths and kerseys were ordered to be 'dressed and for the most part dyed within the Realm'—a policy afterwards adopted by James I. <sup>6</sup>; while, 'for the better maintenance

<sup>1</sup> See the grant printed by Hakluyt, ii., pp. 297–303; for later grants, see *post*, p. xxxii. (5).

<sup>2</sup> Statute 8 Eliz., c. 17 (printed by Hakluyt, iii., pp. 83–9). The Bristol merchants (*ante*, p. xxii. (3)) received a statute in the same year.

<sup>3</sup> See the charter of 1613 (*post*, p. xxxiii.) as to interloping and this statute. Fishermen were, in the interests of seamanship, often excepted from exclusive grants of this kind: see *post*, p. cv. (1).

<sup>4</sup> They were not to be sued and might bring home their merchandise within a certain time. They could obtain freedom if they had traded for ten years, and if before Christmas 1567 they should

'contribute join and put in stock' such sums as members had paid since 1552 'for the furniture of one ordinary full and entire portion or share.' The statute further recognised the joint-stock principle by complaining that 'divers subjects . . . minding for their peculiar gain utterly to decay the trade of the said fellowship, have, contrary to the tenor of the same letters patents, in great disorder traded' into the said dominions, 'to the great detriment of this commonwealth.'

<sup>5</sup> 'For that the name . . . is long and consisteth of very many words.'

<sup>6</sup> See *post*, p. lxxvii.: for the export of kerseys, see Lubimenko, *ubi cit.*, p. 17.

of the Navy and mariners of the Realm,' merchandise was to be carried 'only in English ships, to be sailed for the most part with English mariners.' The latter provision repeated earlier statutes<sup>1</sup> and anticipated the Navigation Acts of 1651 and 1660.

As well as bringing—amongst other commodities—excellent cordage to England,<sup>2</sup> the company undoubtedly assisted the development of Russia, carrying thither arms and munitions of war to the annoyance of Denmark and Poland, until Elizabeth's prohibition in 1561.<sup>3</sup> The right to kill whales and make train oil for twenty years was a valuable concession.<sup>4</sup> The general prosperity of the Russia or Muscovy merchants depended upon the favour shown to them by successive rulers of Russia.<sup>5</sup> Like many other companies, they provided no reserve fund, but divided up their profits, when profits were made; and they probably suffered as severely from the acts of their servants (whose distant doings it was difficult to check) as from the activities of interlopers.<sup>6</sup> After a time Dutch competition pressed them hard. 'Esteemed' in Russia 'as most greedy cormorants,'<sup>7</sup> they were also abused at home. Though 'in long and dangerous voyages (as to Moscow)' a joint stock was held necessary, 'for in that voyage one alone will not adventure,' they were attacked in 1604 as monopolists. 'The Muscovy Company,' it was said, 'consisting of eight score or thereabouts, have fifteen Directors who manage the whole trade. These limit to every man the proportion of stock which he shall trade for, make one purse and stock of all, and consign it into the hands of one agent at Musco, and so again at their return to one agent at London, who sell all and give such account as they please. This is a strong and a shameful monopoly: a monopoly in a monopoly: both abroad and at home. A whole Company by this means is become as one man, who alone hath the uttering of all the commodities of so great

<sup>1</sup> See, for example, 5 Ric. II., c. 3 (*pur encrecer la navie d'Angleterre*); 14 Ric. II., c. 6; 4 H. VII., c. 10; 23 H. VIII., c. 7; and 32 H. VIII., c. 14 (which fixed the freight rates). On the other hand there were repealing statutes; see 1 Eliz., c. 13, 5 Eliz., c. 5, and 13 Eliz., c. 15.

<sup>2</sup> See *S. P. Dom.*, Eliz., clv. 83.

<sup>3</sup> *S. P. Dom.*, Eliz., xviii. 10.

<sup>4</sup> Printed *post*, pp. 28–30. Compare *Patent Rolls*, 25 Eliz., pt. v., permission for the transport of hides, skins, tallow, etc. (extended later, see *Patent Rolls*, 36 Eliz., pt. xi.)

<sup>5</sup> See the respective grants in 1567, 1569, 1586, and 1596 (printed by Hakluyt,

iii., at pp. 92–7, 108–18, 347–53, and 439–45. A contemporary comparison of the grants of 1569 and 1586 is to be found in the *S. P. Foreign*, Russia, i. (unnumbered), showing the merchants' annoyance at the omission in the later grant of certain favourable clauses (as to freedom from search, power to confiscate, and power to send unlicensed traders home), and the inclusion of unfavourable prohibitions (as to retailing, arrears of customs, etc.). See *post*, p. xxxiii.

<sup>6</sup> See *S. P. Dom.*, Eliz., cviii. 16, as to English interlopers assisted by the King of Denmark.

<sup>7</sup> *S. P. Foreign*, 1566–8, 2211.



a country.<sup>1</sup> King James nevertheless confirmed the privileges of the Company,<sup>2</sup> and attempted to suppress the interloping of divers evil-disposed persons who supposed themselves not to be within the scope of the Elizabethan statute, forbidding them to sail without permission. And, 'because We are not ignorant of the emulation and envy which doth accompany the discovery of countries and trades and of the quarrels and contentions which do many times fall out between the subjects of divers Princes when they meet the one with the other in foreign countries,' powers were added of martial law, and of dealing with mutiny and sedition. Emulation and envy were not lessened when he afterwards incorporated under the great seal of Scotland Sir James Cunningham and others as a Scottish Company with rights which seemed intended to infringe those of the Muscovy, Levant, and East India corporations.<sup>3</sup> This competition the Muscovy merchants were obliged to buy off, increasing their indebtedness by borrowing from the East India Company.<sup>4</sup> Their later history must be briefly stated. Their concessions from the Czar, confirmed in 1623,<sup>5</sup> were cancelled in 1646.<sup>6</sup> In 1669 their last joint stock was wound up, and thenceforward they existed as a regulated company only.<sup>7</sup> In 1696 a petition for the freeing of the trade alleged that there were 'not above a dozen or fourteen traders of the company,'<sup>8</sup> that licences to Archangel were not issued at all, and licences to Narva issued subject to an impost of one per cent. and an annual payment of fifty or sixty pounds.<sup>9</sup> The petitioners, who desired to be admitted to membership 'for the same fine for which the members of that company and all English merchants may be admitted into the Hamburg and Eastland Companies,' obtained a statute accordingly.<sup>10</sup> It may be added that the Greenland trade, which was sold to an independent group of adventurers in 1620,<sup>11</sup> was eventually flung open in similar

<sup>1</sup> Proceedings on the bill for free trade, *Commons' Journals*, i., 220.

<sup>2</sup> *Patent Rolls*, 11 Jac. I., pt. xv., reciting the previous grants and the discovery of Cherry Island and Greenland.

<sup>3</sup> See *S. P.*, East Indies, i. 65, *post*, p. 1. (9), and the account in Scott, *Joint Stock Companies to 1720*, ii., pp. 55 and 104.

<sup>4</sup> *S. P. Dom.*, Jac. I., xovii. 2, 9.

<sup>5</sup> See Rymer, xvii., p. 504.

<sup>6</sup> See suggested explanations, Scott, ii., p. 66. In *Commons' Journals*, xi., p. 675, it is said that 'upon the murder of King Charles I. the Emperor would not suffer any Englishman to come up to Moscow.'

<sup>7</sup> See Scott, ii., p. 67.

<sup>8</sup> Apparently in 1555 there had been

207 members (*S. P. Dom.* (Add.) Mary, vii. 39) and 160 in 1604 (see *ante*, p. xxxii.).

<sup>9</sup> *Commons' Journals*, xi., p. 675.

<sup>10</sup> 10 W. III., c. 6. For the Petitions see *Commons' Journals*, xi., pp. 629, 700. The company appears to be nominally in existence still (see W. S. Page, *Russia Company*).

<sup>11</sup> See *Calendar of S. P.*, East Indies, 1618-1621, summary at p. 346. These Greenland Adventurers are not to be confused with the statutory incorporation of the *Company of Merchants of London trading to Greenland* (see 4 W. & M., c. 17), of which the activities were curtailed by the subsequent freeing of the trade (see 1 Anne, c. 10).



fashion by statute in 1672 when the trade was 'quite decayed and lost' and 'now wholly engrossed by foreigners.'<sup>1</sup> The undertakers had found history repeating itself when in 1626 Charles I. licensed Nathaniel Edwards and his partners as a Scottish Company,<sup>2</sup> whose competition had to be bought off.<sup>3</sup> The rivalry of the Hull merchants was a further disadvantage,<sup>4</sup> and the prohibition of the use of Greenland oil for soap-making (in the interests of King Charles's soap monopoly<sup>5</sup>) showed how easily the tinkering with one trade can upset another.

To return to the discoverers, Jenkinson<sup>6</sup> and Humfrey Gilbert<sup>7</sup> had been anxious as early as 1567 to undertake the discovery of a passage to Cathay at their own cost if the Queen would give them an exclusive privilege.<sup>8</sup> Some years later Martin Frobisher sought the same goal. Heads of articles for an incorporation were drawn up and clauses were agreed to by the merchants who were to form a 'Company of Kathai.' Michael Lok and Frobisher (the proposed governor and High Admiral) were each to have the right to admit five persons free and to have one hundredth part of the imports; shares were to consist of £100, and there was to be a new account every three years. But the requests for incorporation<sup>9</sup> were blocked by the Muscovy charter, and the Muscovy Company was slow to move. In the end Frobisher made his voyages under licence from the company,<sup>10</sup> the Queen herself subscribing £1000.<sup>11</sup>

An exclusive trading patent in reward of geographical discovery was consistently justified on the same ground as an exclusive manufacturing patent in reward of industrial invention.<sup>12</sup> Thus partners for an intended voyage asked Elizabeth to grant them, if they succeeded,

<sup>1</sup> 25 Car. II., c. 7 (which also opened the Eastland trade). See the previous Order in Council (*S. P. Dom.*, Car. I., xci. 53) restricting import of whale oil and fins. See also Rymer, xx., p. 16.

<sup>2</sup> See copy of Edwards's licence, *S. P. Dom.*, Car. I., xxxii. 52.

<sup>3</sup> See *ibid.*, lix. 28 (Edwards, proposing to use English ships, was restrained, his materials to be bought by the Greenland Company): see also *ibid.*, cclxxxiv. 67.

<sup>4</sup> *S. P. Dom.*, Car. I., xxxix. 67. Compare *S. P. Dom.*, Jac. I., xciv. 70 and 71.

<sup>5</sup> *Ibid.*, cclxxxix. 70-4: see *post*, p. lxxvi.

<sup>6</sup> *S. P. Dom.* (Add.), Eliz., xlii. 69.

<sup>7</sup> *S. P. Dom.*, Eliz., xlii. 23.

<sup>8</sup> For ten years or for their lives:

themselves and their lineal descendants to traffic customs free (*ibid.*).

<sup>9</sup> *S. P. Dom.*, Eliz., cxi. 49. See also cxix. 31, wherein Frobisher requests certain privileges, including the honour of High Admiral (for himself and his heirs) in the countries discovered or to be discovered.

<sup>10</sup> See *Three Voyages of Martin Frobisher* (Hakl. Soc. 38), and the account in Scott, ii., pp. 76-82. See *post*, p. xxxv (4).

<sup>11</sup> See the names and subscriptions (paid and owing) and expenses of the first two voyages, *S. P. Dom.*, Eliz., cxix. 30, 32-45.

<sup>12</sup> See Coke's 'Notes of Prerogative,' *S. P. Dom.*, Eliz. cclxxvi. 81: cf. *post*, p. lvii.

such assurance and privilege as that the subsequent voyager should not enjoy the fruit of their labours and adventures.<sup>1</sup> For permanent reward they wanted 'letters patent to the authors and fellowship of this voyage in manner of a corporation,' with such rights 'as in this case is requisite and in the like hath been granted.'<sup>2</sup> So also the discoveries of Drake led to a 'project for a corporation of such as shall venture into those dominions and countries situate beyond the equinoctial line'; Drake was to be governor for life, and to have one-tenth of the profits on merchandise brought home, a fifth of the gold and silver being reserved to the Queen. Such a proposal is a link between the early types of merchant bodies and the future corporations of plantation, for the Queen was being prayed to 'grant like privileges as have been granted to her subjects trading into the Dominions of the Emperor of Russia.'<sup>3</sup> From the mystery of Drake's commissions<sup>4</sup> we pass to the patents of the Gilberts. In 1578 Sir Humfrey Gilbert, his heirs and assigns, were licensed 'for ever hereafter to discover . . . remote heathen and barbarous lands . . . not actually possessed of any Christian prince or people.'<sup>5</sup> The soil of such lands was conveyed to him, 'with the rights, royalties and jurisdictions, as well marine as other.' He had full power to dispose thereof 'in fee simple or otherwise, according to the order of the laws of England, as near as the same conveniently may be,' to any person within the allegiance of the Crown, 'paying unto Us for all services, duties, and demands the fifth part of all the ore of gold and silver there gotten,' such lands being for ever holden by Sir Humfrey, his heirs and assigns, of the Crown by homage and by the said payment of one fifth. Gilbert could 'encounter, expulse, repel and resist all intruders,'<sup>6</sup> and take and surprise them and their vessels and goods. In the interests of Christian peace and civil quietness,<sup>7</sup> he could govern and punish ('as well in causes capital or criminal as civil, both marine and other') all who went thither.

To Gilbert the whole scheme of the patent was a 'colourable means'<sup>8</sup>

<sup>1</sup> *S. P. Dom.*, Eliz., xcv. 63.

<sup>2</sup> *Ib.*, 64 (1).

<sup>3</sup> *Ib.*, cxliv. 44. She was also asked to 'erect an house of contraction, with such orders as were granted by the K. of Spain' (i.e. at Seville: see Raleigh, *Discovery of Guiana* (Hak. Soc. 1848), p. 118).

<sup>4</sup> Doughty is said to have asserted that he and Drake had in 1578 'as large a commission as ever went out of England' (*World Encompassed* (Hak. Soc. 1854), p. 172). Drake might have had a royal licence and letters of protection like Frobisher's

(*Patent Rolls*, 17 Eliz., pts. iv. and vii.). I have not found it. See *The Times* of Oct. 10, 1912, at p. 6.

<sup>5</sup> *Patent Rolls*, 21 Eliz., pt. iv. (printed in Hakluyt, viii., pp. 17-23).

<sup>6</sup> Within the prescribed limits or within 200 leagues thereof, unless they were Englishmen or allies 'driven by force of tempest or shipwrack.'

<sup>7</sup> See the full clause in the subsequent Newfoundland charter, *post*, p. 59.

<sup>8</sup> *S.P. Dom.*, Eliz., cxviii. 12 (November 1577).



to annoy Spain. The clause that, if he committed acts of robbery or spoliation, he was to be put out of the royal protection and allegiance,<sup>1</sup> was his own idea. The Queen could either 'avow the same if by the event thereof it shall so seem good,' or disavow him as a 'league-breaker.'<sup>2</sup>

Four years later an agreement was drawn up between Gilbert and 'the society and company' of adventurers with him.<sup>3</sup> His patent had said nothing about incorporation; his articles of agreement purport to make good the omission. All the adventurers are to be free of the trade; they are described as a 'society,' to be named, to sue and be sued, by the name of *The Merchant Adventurers with Sir Humfrey Gilbert*, until the Queen or Sir Humfrey shall give them some other name. They could meet,<sup>4</sup> elect assistants,<sup>5</sup> make statutes, and impose penalties like a true corporation. No members of the Muscovy Company,<sup>6</sup> and no persons living at Southampton who had failed to assist in the former exploration work, were to be admitted to the enterprise, nor any of their children. There were to be payments into a 'common bank or purse,' and a subscription of five pounds was to constitute a 'single adventure.'<sup>7</sup> In 1583 Gilbert read his commission ashore in Newfoundland. But his plans for the following spring sank with him in the little *Squirrel* on her homeward voyage.<sup>8</sup>

Within a few months of Sir Humfrey's death, a patent was obtained by his brother Adrian 'and those his associates and assistants whose names are written in a schedule hereunto annexed' for sailing forth into countries by the northwestward, northeastward or northward, and for trading and residing therein.<sup>9</sup> The grant included 'all manner of privileges prerogatives jurisdictions and royalties both by sea and

<sup>1</sup> See the similar clause, *post*, pp. 61-2.

<sup>2</sup> So he wrote in the 'Discourse how Her Majesty may annoy the King of Spain' (*S. P. Dom.*, Eliz., cxviii. 12). It was a 'special proviso for their safeties whom policy requireth most to have annoyed.'

<sup>3</sup> Dated Nov. 2nd, 1582 (*S. P. Dom.*, Eliz., clv. 86).

<sup>4</sup> See *ante*, p. xx. (2).

<sup>5</sup> Gilbert himself was to appoint the chief officers: their replacing, if necessary, in his absence from England, was to be effected by the company submitting three names to Walsingham, who would prick one.

<sup>6</sup> As a member of that company Sir Humfrey had projected voyages (*circa* 1566) and complained of its inaction (*S. P. Dom.*, Eliz., xlii. 23).

<sup>7</sup> Adventurers in person only would receive 1000 acres of the newly possessed

land: an adventurer in stock only, the same ('over and above the return of his adventure') for every £5: adventurers of both stock and person received double, so also any who on the first voyage tarried eight months in the new land with Gilbert. 'Redemptionaries' might be admitted, but could not hold more than four 'single adventures.' The land was to be held in free socage of Sir Humfrey, with a quitrent of 10s. per 1000 acres. Further, 'of his special grace and mere motion towards the comfort and relief of the poor travellers and decayed persons of the society,' he granted 10,000 acres and a sum in money for distribution.

<sup>8</sup> See account in Hakluyt, viii., pp. 34-77.

<sup>9</sup> *Patent Rolls*, 26 Eliz., pt. viii. (printed in Hakluyt, vii., pp. 375-81).



land.' Payment, not of a fifth, but of a tenth part of all 'gold and silver ore, pearls, jewels and precious stones or the value thereof,' was to be made to the customs officers at London, Dartmouth or Plymouth; only at these three places were the patentees to lade and discharge their goods.<sup>1</sup> The ships and goods of unauthorised traders found frequenting the regions thus given to Gilbert were to be forfeited; nor might any unlicensed person sail thither for five years without written permission. Any associate of Gilbert 'or any other person or persons whatsoever, free of this discovery' would, if during the five years they offended against the grant, lose all benefit thereunder. Mutiny, sedition or disorder was to be punished 'as the cause shall be found in justice to require by the verdict of twelve of the company sworn thereunto as in such a case appertaineth,' a provision for which Adrian had asked, doubtless recalling the experiences of his brother and others.<sup>2</sup>

The feature which distinguishes the patent of Adrian from that of Humfrey Gilbert is the greater number of 'associates' which it contemplated, and the method in which they are treated. Throughout the document mention is made of them, their heirs and assignees,<sup>3</sup> not of them and their successors. There is no word of corporateness except—as if by an afterthought—in this single clause: 'and unto the said Adrian Gilbert and his said associates their heirs and assigns We impose give assign create and confirm this name peculiar to be named by, to sue and to be sued by, that is to wit by the name of *The Colleagues of the Fellowship for the Discovery of the Northwest Passage*, and them for Us our heirs and successors by that name do incorporate and do erect and create as one body corporate to have continuance for ever.' This odd feature is repeated when in 1612 the patent was thought good enough for Penkevell and his associates to copy.<sup>4</sup> Gilbert wanted corporateness, it seems, in order that the company could sue for its moiety in confiscated vessels.<sup>5</sup>

When Roanoke was conveyed to Raleigh in 1584,<sup>6</sup> Humfrey Gilbert's patent served as a model.<sup>7</sup> Not even Gilbert in Newfoundland, not

<sup>1</sup> Humfrey Gilbert's agreement provided for a 'perpetual staple receipt and repository' at Southampton for goods: all goods were to be landed there only.

<sup>2</sup> See the suggestions for Adrian Gilbert's grant, *S. P. Dom.*, Add., Eliz., xxviii. 54.

<sup>3</sup> There was power to assign to one single assignee apiece.

<sup>4</sup> See *post*, p. 1.

<sup>5</sup> See *S. P. Dom.*, Add., Eliz., xxviii. 54.

<sup>6</sup> *Patent Rolls*, 26 Eliz., pt. i. (printed

by Hakluyt, viii., pp. 289–96, and in *Constitutions, Colonial Charters, etc., of the U. S.*, ii., pp. 1379–1382).

<sup>7</sup> A few additional words occur in Raleigh's patent. The lands are not to be such as are inhabited by Christian people: the privileges are to be such as 'We by our Letters Patents may grant and as We or any of our noble progenitors have heretofore granted to any person or persons, bodies politic or corporate.'

even Raleigh in Virginia, could establish single-handed the permanent colony which each had projected. Their efforts ended with them, though, after the accession of King James, companies were chartered to carry on their work.<sup>1</sup>

## V

Apart from such grants in perpetuity, Elizabeth issued trading privileges for limited terms of years to small groups of merchants which in some cases subsequently became famous. Two of these groups, for example, united to form the Levant Company. She had in 1575 issued to a Lucca merchant, Acerbo Velutelli, a rather unpopular grant of importing and selling in London ('in groce onlye and not by retayle') currants and 'salled oyle' for ten years.<sup>2</sup> This monopoly she transferred in 1582 to certain English merchants who at great cost had built ships and traded to Venice and its dominions.<sup>3</sup> The Venetians were excluded from bringing Greek currants, oils and wines to England, in order to retaliate upon Venice for a new impost lately laid upon English merchants.<sup>4</sup> In the previous year Edward Osborne and Richard Staper, for their services in establishing a new trade with the country of the 'great Turk, commonly called the Grand Signior,' had received a seven years' privilege of sole trade to Turkey<sup>5</sup> along with Thomas Smith, William Garret, and such others (not exceeding twelve) as they should admit to their partnership. The Queen reserved the right to nominate two others to join in the trade, and conceded to the company the right of setting 'in the tops of their ships and other vessels the arms of England with the red cross over the same, as heretofore they have used the red cross.'<sup>6</sup> The term of years could be extended for a similar term if desired and approved;<sup>7</sup> on the other hand, it might be determined after one year's warning if the grant was deemed unprofitable, or if any of the company 'commit any piracy or outrage upon the seas' and fail to recompense the

<sup>1</sup> The petition of Gerrard and Peckham (*S. P. Dom.*, Eliz. cxlvi. 40) asserts that Gilbert assigned them his patent. See Hakluyt, viii. pp. 41, 81. The subsequent Newfoundland charter is printed *post*, pp. 51-62. For Virginia, see *post*, pp. lxxxiii-lxxxv.

<sup>2</sup> *Patent Rolls*, 17 Eliz., pt. i. (For comments on the grant see *S. P.*, Venetian, 1558-1580, Nos. 645, 649, etc.). The patent speaks apologetically of this merchandise as 'here consumed rather for wantonness than for any need.'

<sup>3</sup> *Patent Rolls*, 25 Eliz., pt. ii. (to Cordall,

Holmden, Banynge, and ten others for six years). See the Queen's direction in *S. P. Dom.*, Eliz., clv. 110. The grant was supported by a proclamation (see *S. P.*, Venetian, 1581-1591, No. 160).

<sup>4</sup> See the similar clauses, *post*, pp. 38-40. For diplomatic efforts to remove the imposts see *S. P.*, Venetian, 1581-1591, Nos. 610 and 767.

<sup>5</sup> *Patent Rolls*, 24 Eliz., pt. xiii. (printed by Hakluyt, v., pp. 178-89).

<sup>6</sup> See the similar clause, *post*, p. 38.

<sup>7</sup> In fact, it was allowed to expire in 1588.



injured parties. Though described in this patent as a 'Society' and a 'Company,' the Turkey merchants were not incorporated until 1592, when, in conjunction with the Venetian adventurers,<sup>1</sup> they received a twelve years' licence<sup>2</sup> to traffic in the Mediterranean, based upon the earlier grant.<sup>3</sup> The new company, the *Governor and Company of Merchants of the Levant*,<sup>4</sup> was a joint-stock undertaking,<sup>5</sup> though its membership was a little vague. More than fifty merchants were named as members; two others who had 'not yet assented to be incorporated,' but had traded to those parts, were given two months in which to join; eighteen more were to be admitted if within that time they paid one hundred and thirty pounds 'towards the charges that the same Company have already been at in and about the establishing of the same trades.'<sup>6</sup> Merchants included in the grant might, upon giving notice within two months, resign their membership; they could then within eighteen months bring home their goods from the East, but must otherwise cease trade.

Provision was made for continuance of the grant,<sup>7</sup> but before the term had run a fresh charter was given in 1600,<sup>8</sup> wherein the previous corporation and patent were said to be found 'doubtful and questionable in law.'<sup>9</sup> The profit on currants had excited the attention of the customs

<sup>1</sup> See the petition for fusion of the two bodies, who else had overlapped, *S. P. Dom.*, Eliz., cccxxix, 40 (and annexed documents printed by Epstein, *Levant Company*, pp. 252-61: see also the complaint in *S. P. Dom.*, Eliz., clvii, 84). Burghley's careful inquiries may be seen in *S. P. Dom.*, Eliz., cccxxix, 140.

<sup>2</sup> *Patent Rolls*, 34 Eliz., pt. xii. (printed in Hakluyt, vi., pp. 73-92). They could trade 'by and through the said Grand Signior's dominions to and from such other places in the East Indies discovered as aforesaid.' The expressed grounds for the incorporation include good service in relieving Christians from Turkish bondage, good trade, 'the maintenance of our Navy, the increase of our customs and the revenues of our Crown.'

<sup>3</sup> The grant repeats passages of that of 1582, which also survive in that of 1600 (see *post*, pp. 38, 41, footnotes).

<sup>4</sup> See *post*, note (9).

<sup>5</sup> Burghley wanted to know in 1591 'whether the trade for Turkey shall be maintained by a society in common, or by every merchant severally' (*S. P. Dom.*,

Eliz., cccxxix, 140). The merchants were for trading 'in one joint capital stock as in time of their former patent, for the better maintenance of the Ambassador and the avoiding great disorders' (*ibid.*, cexli, 13). See also *Commons' Journals*, i., p. 220, and Scott, ii., pp. 84-5.

<sup>6</sup> For complaints of the restriction of membership see *S. P. Dom.*, Eliz., cccxxix, 41, 42 and 80, and the petition of Osborne, Staper, etc., *ibid.*, 44. See also reports of Sir John Hawkins and Wm. Borough (*ibid.*, 124, 157) advising a joint stock for the Turkish, but not for the Venetian, trade.

<sup>7</sup> See the slightly wider clause, *post*, p. 42.

<sup>8</sup> Printed, *post*, pp. 30-43.

<sup>9</sup> A summary in *S. P. Dom.*, Jac. I., vi., 69, says 'Then were both the companies of Turkey and Venice united in one for twelve years, whereof at the end of eight years the said patent was made void because we were named 'merchants of the Levant,' and should have been called 'merchants trading of the Levant.' A change in name was at any rate made in 1600 (see *post*, p. 32).



officers and the envy of would-be competitors.<sup>1</sup> The new charter recites the loyal and grateful desire of the merchants to pay the Queen four thousand pounds,<sup>2</sup> and makes such payment a condition of the continuance of the monopoly for fifteen years.<sup>3</sup> The form of the charter is interesting. The initial provisions (giving capacity to hold lands, to sue and be sued, to have a common seal, to meet, elect officers, etc.) follow a more fully developed model than the grant of 1592, and are remarkably like the East India charter of 1600. For the rest it copies the previous Levant grant so faithfully that it finally contains two separate provisions for a common seal, one borrowed from each original.<sup>4</sup>

Upon the accession of James, anti-monopolist agitation<sup>5</sup> seems to have given the company the chance of escaping from its debts and its unprofitable trading by forfeiting its charter.<sup>6</sup> Unwilling to lose the income derived from the currants concession, the King farmed out the customs on currants to Sir Roger Dallison and Richard Wright for £5322 a year.<sup>7</sup> Unless the Levant trade was to be abandoned, some organisation was indispensable, not only for discharging debts, but also for maintaining an ambassador and consuls and for providing the inevitable present for the Grand Signior.<sup>8</sup> The veteran Richard Staper enumerated, among the consequences of abandonment, loss of customs and of markets for English products, decay of tall ships and skilful mariners, decay of Yarmouth and the West of England, decay of fustian-making, hindrance to the Newfoundland and Russia traffic, harm to the Christian faith, captivity of Englishmen, increased exactions by Venice and, finally, 'the discouragement that merchants shall have hereafter to join their stocks together to plant any trade.'<sup>9</sup> The Earl of Salisbury, who took the opinion of Chief Justice Popham,<sup>10</sup> favoured an incorporation of merchants to which no one who would

<sup>1</sup> See *Commons' Journals*, i. 220.

<sup>2</sup> See *post*, p. 31.

<sup>3</sup> See *post*, p. 43.

<sup>4</sup> See *post*, pp. 32, 38.

<sup>5</sup> As stated in *S. P. Dom.*, Jac. I., iv. 46; vi. 69. See the discussion in *Commons' Journals*, i. 218-21: cf. *ante*, p. xxxii.

<sup>6</sup> Apparently half a year's rent (£2000) was owing to James (*S. P. Dom.*, Jac. I., xx. 25). One observer (*S. P.*, Venetian, 1603-7, No. 364) noted the East India traffic (in the annual ventures of which many Levant merchants were interested) as offering greater attraction and profit. See *post*, pp. 34 (1), 38 (1).

<sup>7</sup> See Indenture (*Patent Rolls*, 2 Jac. I.,

pt. xxxii. (giving power to open and view goods, and examine shipmasters, but not to examine merchants on oath)) and *S. P. Dom.*, Jac. I., iv. 46.

<sup>8</sup> The sum of £2500 was named in *S. P. Dom.*, Eliz., ccxli. 13.

<sup>9</sup> *S. P. Dom.*, Jac. I., xv. 4 (see papers thereto annexed).

<sup>10</sup> Some 'waywardly disposed' persons, hearing of the proposed entrance fee, declared that the King could not prohibit foreign trade 'and therefore he cannot annex to any such corporation any such condition of any such sum, though but at the first entry' (*S. P. Dom.*, Jac. I., xv. 54).

pay a reasonable fine on entrance should be refused admission.<sup>1</sup> In 1605, after many arguments and conferences, this plan was carried out.<sup>2</sup> Monies due to the old company and entrance fees were to accumulate until there was £8000 with which to pay off the arrears and charges of the trade. Thus, under a charter which forsook the form of previous Levant grants for a much older model, the Levant merchants became a 'regulated' company. A joint stock was occasionally attempted in order to undersell the Venetians or to end the underselling among the brethren themselves.<sup>3</sup> There was an occasional skirmish with the Merchant Adventurers<sup>4</sup> or with the Bristol Merchants,<sup>5</sup> an occasional difficulty with the vested interests of Southampton,<sup>6</sup> or with traders who tried to evade the consulage duty.<sup>7</sup> Apart from such events the Levant Company, confirmed and 'upheld' by the Long Parliament,<sup>8</sup> survived peacefully until the nineteenth century, Charles II. having repeated his grandfather's charter with a few additions in 1661.<sup>9</sup> This patent it at length surrendered in 1825 when Parliament declared that 'it would be beneficial to the trade of the United Kingdom that the exclusive rights and privileges should cease.'<sup>10</sup> The authority of the company's consuls who, ever since the early days of William

<sup>1</sup> *Ibid.*

<sup>2</sup> *Patent Rolls*, 3 Jac. I., pt. xx. (printed by Epstein, *Early History of Levant Company*, pp. 152-210). For the arguments see *S. P. Dom.*, Jac. I., x. 27 (for the company): 28, 29, 30, 32 (against it): and 31 (for the farmers).

<sup>3</sup> See the Court Book entries, for example, of 24 Nov. 1620, and 20 Jan. 1630.

<sup>4</sup> See the controversy in 1625 (*Levant Papers*, i. 33) as to importations from the Low Countries.

<sup>5</sup> See the Order in Council of 1618 (*non obstante* the Levant charter) for Bristol merchants to import 200 tons of currants yearly for Bristol and the neighbourhood at reasonable rates. (*Ibid.*, i., 20.)

<sup>6</sup> The statute 13 Eliz. ordered all Levant wines imported by merchant strangers to be landed at Southampton on pain of forfeiting half to that town. In 1615 the company got a proclamation restricting to its members the right to import. The town, in its petitions, alleged a consequent loss of £1000. (See *Levant Papers*, i. 22 and 38.)

<sup>7</sup> See the case of the Garway family, *ibid.*, i. 21.

<sup>8</sup> In 1643-4: see *Acts and Ordinances of the Interregnum*, i. 395-6: 'the said Fellowship . . . shall continue and be a corporation . . . with free choice and removal of all ministers and officers.' (See *ibid.*, *pass.*, regulations of the currant trade.) The company published in 1652 some weighty reasons against free traders, alleging that it maintained 'the open door for any to come in' (*S. P. Dom.*, Interreg. xxiv., 24).

<sup>9</sup> *Patent Rolls*, 13 Car. II., pt. x., which added power to collect 'consulage,' and to punish offenders who declined the justice of the Ambassador, Consuls, etc., and appealed to a Turkish court. Voting was restricted to those who had traded enough to pay 40s. in impositions in the past year. Members must be freemen of the City (cf. *ante*, p. xxii. (16)), unless they were 'noblemen and gentlemen of quality who never were apprentices to, nor bred in, nor have applied themselves to any course of trade as their calling.'

<sup>10</sup> 6 Geo. IV., c. 33. See earlier statutes therein cited.



Harborne, had served the English traders of the Levant, was accordingly transferred to consuls to be appointed by the English Crown.<sup>1</sup>

## VI

English traffic with Africa in the time of Elizabeth is illustrated by the licences to Barbary and Guinea traders. The question of incorporating the 'merchants trading Barbary' evoked familiar arguments. It was asserted that a grant was useless unless the King of Barbary gave a privilege, that no governance or ordinance could have weight in Barbary, that there was no reason for privilege, and that incorporation would not stop men from trading to their own devices. It was answered that, without incorporation, 'the trade being not great, one, two, three, or a small number may with their great substance overlay the younger and poorer sort and the greater number, and so in the end attain to monopoly and consequently sell here as they list.'<sup>2</sup> The pioneers who had brought back sugar, almonds and gold from Barbary<sup>3</sup> wanted to restrain the unskilful traders (artificers, clothiers, mariners and others) who were crowding thither at unseasonable times and paying enhanced prices. Formal incorporation was demanded.<sup>4</sup>

Towards the year 1585 the Earl of Leicester, being interested as a contractor for the supply of iron and other metals to the King of Barbary, seems to have prevailed upon other merchants to 'enter into a fellowship for certain years for reformation of that trade,' not without advantage to himself.<sup>5</sup> With the Earl of Warwick and some forty London 'merchants now trading into the country of Barbary,' he obtained a twelve years' licence of sole trade. The grant, which has no words of incorporation,<sup>6</sup> is notable for the predominance given to Leicester, whose consent to any ordinances or licences to outsiders was made indispensable.<sup>7</sup>

<sup>1</sup> For Harborne, see Hakluyt, v., pp. 184, etc., and *D. N. B.* It had been suggested in 1604 that the King should maintain the Embassy, 'all foreign merchants disgracing the ambassador in Turkey as a stipendiary of the merchants and maintained by them' (*S. P. Dom.*, Jac. I., x. 34). Some examples of attempted interference by the Crown in appointments are collected by Epstein, *Levant Company*, at pp. 81-5, 89, 93-4. Cf. *ante*, p. xiv. (8).

<sup>2</sup> *S. P. Dom.*, Eliz., clvii. 85; xcix. 27. See *ante*, p. xx. (4).

<sup>3</sup> See some observations of Chester, Garrard and Lodge as to early trade with Barbary and Portuguese advice, *S. P. Dom.*,

Eliz., xix. 20.

<sup>4</sup> *Ibid.*, xlii., 22; see *ibid.*, cxi. 34.

<sup>5</sup> *Ibid.*, xxxviii. 37.

<sup>6</sup> Nevertheless Henry Roberts, who at once proceeded to the Emperor of Morocco, there to remain as 'Liger,' or ambassador, for three years, begins his account: 'Upon an incorporation granted to the Company of Barbary merchants resident in London' (Hakluyt, vi., p. 426).

<sup>7</sup> See the grant (*Patent Rolls*, 27 Eliz., pt. xii.) printed in Hakluyt, vi., pp. 419-425. One George Gyppes, whose partner Boldrowe was among the patentees, was kept out of the privilege because he was a retailing linendraper and not a mere merchant (*S. P. Dom.*, Eliz., clvii. 86).

At a long interval after Moors, Genoese and Portuguese,<sup>1</sup> Englishmen applied themselves to the Guinea trade. Hakluyt records many of their names and voyages. Their patient efforts to conciliate the natives were abruptly spoiled when John Hawkins, who had trafficked to the Canaries and made inquiry about the West Indies, became 'assured that negroes were very good merchandise in Hispaniola, and that store of negroes might easily be had upon the coast of Guinea.'<sup>2</sup> Thenceforward the need of a consistent policy towards natives and towards Portuguese must have made some form of government inevitable in the African trade; and if forts and stations were to be established and maintained,<sup>3</sup> some form of joint subscription was required.

Five 'chief adventurers' (Thomas Lodge, sometime Lord Mayor of London, Sir William Garrard, Sir William Chester, Anthonie Hickman, and Edward Castelyn) contributed fifty pounds apiece for a voyage to Guinea in 1564. Behind each of these five were other sets of partners who were called upon to supply, towards new rigging and victualling, £29 10s. 6d. for every £100 value.<sup>4</sup> Elizabeth, by indenture and charter-party,<sup>5</sup> granted them her ships the *Minion* and the *Primrose* to pass and sail upon one voyage 'to parts of Africa and Ethiopia where the King of Spain hath no present dominion,' with equipment up to the value of £500. The merchants promised (under bond of 1000 marks) to lade £5000 worth of merchandise, and upon return of the ships<sup>6</sup> to pay her one full third of the net profits after audit by her appointed officer.

This voyage, like others afterwards, met with scant success.<sup>7</sup> At length, in 1588, a licence for ten years' exclusive trade was issued to eight merchants (of Exeter, Colyton, Barnstaple and London) for the region between the Senegal and Gambia.<sup>8</sup> They could receive others into their 'society and company,' but they were no more incorporated than a group of five Taunton merchants who, with one Londoner, afterwards

<sup>1</sup> See Mr. Payne's account of Portuguese and other explorers, *Cambridge Modern History*, vol. i., c. l.

<sup>2</sup> *Hawkins' Voyages* (Hakl. Soc. 1878, lvii., p. 5). For a cargo of 300 negroes (obtained 'partly by the sword'), Hawkins had 'reasonable utterance' in Hispaniola in 1562. (*Ibid.*, p. 6.)

<sup>3</sup> See the project for a fort in the instructions to Michael Lok in 1561 (Hakluyt, vi., p. 253). The first English fort seems to have been built by St. John's Company in 1615 (*S. P., Colonial*, xi. 15). For an early Portuguese fort, see *S. P. Dom.* (Add.), Eliz., xvii. 115.

<sup>4</sup> Hakluyt, vi., p. 262. Similarly in

1607 fifty 'chief adventurers' in the East India Co. had power to 'receive other adventurers under them' (*Court Book*, ii., p. 40).

<sup>5</sup> *S. P. Dom.*, Eliz., xxvi. 43, 44.

<sup>6</sup> There is a note that no port of return is specified.

<sup>7</sup> See Scott, ii., pp. 7-10.

<sup>8</sup> *Patent Rolls*, 30 Eliz., pt. ix. (printed by Hakluyt, vi., pp. 443-450. The persuasion and earnest motion of 'certain Portugals resident within our Dominions' is recited: they were to have one-third of the forfeitures. In general the grant resembles that of Osborne and Staper (*ante*, p. xxxviii.).



gained a similar grant for the country between the Rivers Nunoe and Magrabumbo on the coast of 'Seralen.'<sup>1</sup> The latter grant was in reward of the travail and expense of Thomas Gregory, who had informed the King of Portugal of his discoveries, and had agreed with His Majesty to pay him certain profits as specified in a contract made between them.<sup>2</sup>

The first incorporation in the African trade was apparently that of 1618, when Sir William St. John and others were constituted the *Company of Adventurers of London trading into the parts of Africa*.<sup>3</sup> Purporting to be a reward for discovery, the patent was afterwards revoked on the ground of 'untrue suggestion.'<sup>4</sup> Sir Richard Young, Sir Kenelm Digby, George Kirke, Humfrey Slaney, Nicholas Crispe and William Cloberry alleged that they had for years before the grant traded to those parts 'and had people then in that country upon the discovery of the gold mines,' and, owing to the prohibition in the patent, had been forced to abandon their trade. The former patentees, they said, had neglected the business, so that the Dutch and French had established themselves on the Senegal river; the ablest of St. John's company were dead; the rest were disinclined to traffic and were heavily in debt.<sup>5</sup> Young and his associates claimed to have raised a large stock and set up a trade at the River Cerboro, employing a thousand tons of shipping therein. They had brought factors from Holland to work the gold trade, which could not be severed from the general enterprise. They had 'begun to build houses and factories in those parts, which will be very chargeable unto them.' Meanwhile the independent trader, 'going at small charge,' was creeping into the traffic. For these reasons they obtained in 1632 a thirty-one years' lease of the territory from Cape Blanco to Cape de Bona Esperanza, paying the necessary customs.<sup>6</sup> Though they were not incorporated, they were empowered to make laws and ordinances and to arrest and seize ships;<sup>7</sup>

<sup>1</sup> *Patent Rolls*, 34 Eliz., pt. vi.

<sup>2</sup> The performance of this contract was a condition of the patent.

<sup>3</sup> See the patent printed *post*, pp. 99-106. Note the direction for the design of the seal, and the general power given to St. John to appoint a Deputy Governor, Committees, Directors, and other officers.

<sup>4</sup> See *post*, p. 99 (2).

<sup>5</sup> For their losses in 1618, 1619 and 1620, see *S. P. Dom.*, Jac. I., cxxiv. 115; Scott, ii., p. 12. The imports made by Young, Digby & Co. were charged with increased duties to pay £397 to the creditors of 'the

late dissolved Company,' under a subsequent order (*Patent Rolls*, 12 Car. I., pt. xxiv.).

<sup>6</sup> *Patent Rolls*, 7 Car. I., pt. xiv.

<sup>7</sup> Their factors and servants were forbidden to trade privately. No one else was to be licensed. Power was given to admit partners, and to assign any part of their undertaking. And 'because these countries are subject to have the wind blow constantly most part of the year one way,' their ships and crews were not to be stayed, hindered or impressed. Two Dutch factors were to be naturalised.

their right of sole trade was backed by a subsequent proclamation.<sup>1</sup>

The previous company—according to Young, Crispe and others who were trying to raise money by assessing the members—had been ruined by the non-payment of subscriptions.<sup>2</sup> The new partnership fared indifferently, though in 1636 their ship came home with four hundred-weight of gold and other commodities to the value of £30,000.<sup>3</sup> They had to meet competition too.<sup>4</sup> By the year 1644 the whole concern seems to have been owned as to one-half by Nicholas Crispe, and as to each remaining quarter by Samuel Crispe and John Wood.<sup>5</sup> Nicholas Crispe, attacked in Parliament as a monopolist, was alleged to owe the State £16,000, for money received by him as farmer of the Customs.<sup>6</sup> As he failed to pay this sum, his share in the ‘Guinea Company’ was sequestered. Wood, the treasurer, produced a balance sheet, showing liabilities £10,481 besides debts not yet agreed, and assets £405 with stock abroad and doubtful debts.<sup>7</sup> Additionally, the Navy Committee owed the business £5000 which had been ‘borrowed’ when a ship had arrived with £11,000 of gold:<sup>8</sup> and Wood had paid in advance £1912 on account of customs. Whether or not these accounts were finally adjusted, the company obtained in 1651 a fourteen years’ monopoly of the district, twenty leagues on either side of their two chief factories (on condition of fortifying it), the coast to the southward being thrown open to all.<sup>9</sup>

For the re-settlement of the trade, Charles II., upon his accession, constituted the Duke of York, Prince Rupert and others a corporation by the name of *The Company of the Royal Adventurers into Africa*.<sup>10</sup>

<sup>1</sup> See *Patent Rolls*, 8 Car. I., pt. xxi. dors.; Rymer, xix., p. 370.

<sup>2</sup> *S. P. Dom.*, Car. I., dxi. 82. Sir T. Button, Lewis Powell (see *post*, p. 99) and Kenelm Digby himself are on the list of defaulters (*S. P. Dom.*, Car. I., dxi. 82 (2)). Judgment debts against the company amounted to £945.

<sup>3</sup> *S. P. Dom.*, Car. I., cccxxvi. 26. See Scott, ii., pp. 14–15.

<sup>4</sup> The Privy Council ordered the staying of the ship and goods of John Crispe and others who had set out the ‘Talbot’ to trade in Guinea and ‘transport nigers.’ *S. P., Colonial*, ix. 75. In 1649 they had to meet a remonstrance from ‘Vassall and Company’ that their grant was ‘by procurement of courtiers.’ They answered it was in consideration of bringing in £10,000 worth of gold (*ibid.*, xi. 15). Slaney

and Cloberry had begun as interlopers themselves in opposition to Nicholas Crispe. (*S. P. Dom.*, Car. I., cliv. 42.)

<sup>5</sup> *S. P. Dom.*, Car. I., dxi. 368. (There were mutual covenants between the partners that no one could draw money from the joint trade till all debts owing by the joint stock were satisfied, *ibid.*, 369.)

<sup>6</sup> *Ibid.*, 376.

<sup>7</sup> *Ibid.*, 368.

<sup>8</sup> *Ibid.*, 369.

<sup>9</sup> *S. P., Interregnum Entry Book*, xciii. 244.

<sup>10</sup> See patent printed *post*, p. 172 (the management being in the hands of six ‘agents,’ there was no governor to appear in the corporate name). For the surviving books and other records of the African Co., see Mr. Jenkinson’s article, *Trans. Royal Hist. Soc.*, 1912, p. 185.



Influenced by the fact that there were stations and factories to be conveyed<sup>1</sup> (and partly also by the form of the previous demise to Young, Digby and their associates), this charter contains some of the elements of a lease. The King, reciting (as in the demise of 1631) his title to the territories concerned, conveys them to the Duke of York and others at a rent of two elephants<sup>2</sup> 'in trust and for the sole use, benefit, and behoof of' the company. The grant included a power to execute martial law, and a clause allowing the King to come in as adventurer if he afterwards thought fit.<sup>3</sup> A recent suggestion that the future management should be committed to five, or at most seven, persons, who were to meet three hours a day three days a week at fixed salaries, led to the substitution of six 'Agents' for the usual constitution.<sup>4</sup>

The grant was for one thousand years; if the demise to Young and his partners were not void and determined, the term was to begin from the expiration of the demise.<sup>5</sup> Two years later, the demise having come to an end, more money having been brought into the trade, and further 'rules, authorities, powers and jurisdictions' being conceived necessary, the corporation surrendered its recent patent and received another in its place.<sup>6</sup> The new provisions set up a constitution consisting of a Governor (who, if of the blood royal, need take no oath<sup>7</sup>), a Sub-Governor, Deputy-Governor, and Assistants numbering twenty-four or thirty-six as thought fit.<sup>8</sup> Shares in the undertaking might be assigned, if the assignment were made in open Court and registered; so that thenceforward membership by assignment and transfer of shares

<sup>1</sup> According to his grandson's petitions (*Commons' Journals*, xi., p. 542, and xvi., p. 180), Nicholas Crispe was to have £20,000 for the castle of Cormanteen and other factories built by him: the sum was unpaid in 1709; see *S. P. Dom.*, Car. II., vii., 136.

<sup>2</sup> See *ante*, p. xxvii (2).

<sup>3</sup> See *post*, p. 176, and compare the clause at p. 181. He was interested (as to two-thirds of profit and expenses) in the gold mines, see p. 177. Pepys says the company (of which he gives the arms and crest) was named 'Royal' because the King was of it (*Diary* (Ed. Wheatley), iii., p. 139). The King lent two ships in 1663 (*ibid.*, p. 390). A prize ship had been similarly lent in 1626 (*S. P.*, Docquets, xiii. (17 Oct.), with security for re-delivery in a year. See Pepys' memorandum of conditions of lending ships, *S. P. Dom.*, Car. II., lxxxviii., 114.

<sup>4</sup> See *post*, p. 175, and proposals in *S. P. Dom.*, Car. II., lxxvii. 162, which deal fully with officials, salaries, expenses, profits on negroes, and liquidation of the old debts, and suggest statutory confirmation of the business.

<sup>5</sup> See *post*, p. 174. Crispe's grandsons asserted in 1709 (see above, note(1)) that he, having acquired all his partners' interests, had been given in 1647 a twenty years' extension of the demise.

<sup>6</sup> See patent printed *post*, p. 177.

<sup>7</sup> See *post*, p. 180, and compare the clause in the Fishing patent at p. 183.

<sup>8</sup> Pepys says an Assistant got £300 a year (*Diary*, iv., p. 42). The Committees of the East India Co. were in 1615 voted a gratification of £1,000 each, business requiring their daily attendance. This was only two per cent. on business done, and merchants usually gave their servants five (*Court Book*, iii., p. 472).

was frankly recognised and facilitated.<sup>1</sup> Negro slaves were expressly included among the merchandise in which the company had the sole right of trade; private trading by members, factors, shipmasters or mariners was forbidden; and the territory now granted extended from 'the Port of Sally in South Barbary' to Cape de Bona Esperanza, including all the islands adjoining those coasts.

'By accidents in the late wars and other casualties' the company sank so low that investors feared to advance money lest it should be swallowed up in payment of old debts. A reconstruction consequently took place in 1672, the creditors and others being incorporated as the *Royal African Company of England*, to enjoy the rights and interests which the insolvent corporation surrendered.<sup>2</sup>

The new incorporation had powers of making peace and war with any heathen nations within the limits of its African territory, and of appointing Courts of Judicature with wide mercantile and maritime jurisdiction, to determine cases according to the rules of equity and the laws of merchants.<sup>3</sup>

An attempt to obtain statutory incorporation, begun in 1671<sup>4</sup> and renewed in 1694, raised the question of the future conduct of the trade. The Sub-Governor of the company contended 'that the forts and castles cannot be maintained but by a company in a joint stock exclusive to all others,'<sup>5</sup> but there was considerable hostility from outsiders.<sup>6</sup> Finally a thirteen years' settlement was made, the company to maintain the castles and forts, and all English subjects to be free to trade upon paying certain percentages.<sup>7</sup> When the period expired, the House resolved that the trade ought to be free, that forts and settlements ought to be enlarged and maintained by a charge borne out of the trade, that the plantations must be sufficiently supplied with negroes at reasonable rates, and that a large stock was necessary.<sup>8</sup>

<sup>1</sup> Earlier transfers were tabulated in the minute-book under the words 'Resolved that this Court doth approve of the following shares to be transferred.' (See entry of 29th Dec. 1664, *Treasury, African Companies*, 75). Cf. the East India Co., *post*, p. xlix., and see pp. xcviii., 115, 175, 180, 200, 245-6.

<sup>2</sup> See patent printed *post*, p. 186. In 1682 the Lord Keeper said the old charter had never been surrendered: he put the debts at £200,000 (*Curson v. Royal African Co.*, 1 Vern. 121).

<sup>3</sup> See *post*, pp. 191-2, and compare the East India charter of 1683.

<sup>4</sup> See the proposals, *Hist. MSS. Com-*

*mission Rep.*, ix., pt. ii., p. 9.

<sup>5</sup> *Commons' Journals*, xi., p. 113. Compare *MSS. of the House of Lords*, 1695-7, ii., pp. 13, 18.

<sup>6</sup> The clothiers, dyers, etc., of Somerset and of Devon complained that red-wood had been sold by private contract (instead of publicly 'by inch of candle') and had been engrossed and the price trebled (*Commons' Journals*, xi., pp. 287, 290).

<sup>7</sup> 9 W. III., c. 26.

<sup>8</sup> *Commons' Journals*, xvii., p. 164. It was also thought that £100,000 worth of English goods should be sent annually to Africa.



The company protested its legal right in the forts under a grant from the Crown,<sup>1</sup> and the threatened Bill did not pass.

In 1750 the end came. All English traders to Africa were incorporated by statute as the *Company of Merchants trading to Africa*,<sup>2</sup> and the forts, settlements and factories were vested in the new body.<sup>3</sup>

The African Company had not intervened in the Canary Islands trade, which in the reign of Charles II. was (like the Barbary trade) 'followed by particular persons.'<sup>4</sup> During that reign complaint was made of disorderly trading to the islands, the former 'easy' price of Canary wine being doubled by the competitive and unskilled buying. Merchants, moreover, could no longer pay for their purchases of wine with English goods, 'insomuch that our subjects have of late been forced to carry thither pieces of eight and other bullion which would otherwise have been imported into our kingdom.' Hence in 1665 the trade was made subject to regulation by the *Governor and Company of Merchants trading to the Canary Islands*.<sup>5</sup> During the following year there were several petitions against the charter,<sup>6</sup> which, being resolved by Parliament to be illegal, a monopoly, and a grievance to the subject,<sup>7</sup> was soon afterwards revoked. One of the seventeen heads of accusation brought against Clarendon in 1667 was the charge of having received 'great sums of money for passing the Canary patent and other illegal patents,' and of having granted illegal injunctions to stop proceedings at law against the grants.<sup>8</sup>

## VII

The charters of the East India Company have already been printed,<sup>9</sup> and its history is sufficiently recorded elsewhere. But this sketch of the great trading companies created by Elizabeth is incomplete without some mention of the greatest of them all. First incorporated in 1600<sup>10</sup> for fifteen years, the members, their sons of twenty-one years, their apprentices, factors and servants, received the sole right of trade with

<sup>1</sup> *Ibid.*, p. 319.

<sup>2</sup> 23 Geo. II., c. 31.

<sup>3</sup> 25 Geo. II., c. 40. An Act for settling the old company's debts had passed in 1712 (10 Anne, c. 27).

<sup>4</sup> *Colonial Entry Book*, i.

<sup>5</sup> *Patent Rolls*, 17 Car. II., pt. i.; elsewhere in the grant the words 'of England' are added after the words 'Merchants' in the corporate name. The designs of the common seal (including a lion of England between two bunches of grapes) and of the crest (including 'the mountain called the

Pike of Teneriffe') are specified in the charter.

<sup>6</sup> See *Commons' Journals*, viii., pp. 629, 632, 635, 672.

<sup>7</sup> *Ibid.*, p. 643. The power of the company to seize a ship (under the usual clause in the patent forbidding unlicensed trade on pain of forfeiture) was discussed in the Courts in *Horn v. Ivy*, 1 Ventr. 47.

<sup>8</sup> *Commons' Journals*, ix., p. 16.

<sup>9</sup> *Charters granted to the East India Company* (London: 1788).

<sup>10</sup> See *ante*, p. xviii. (4).

'the East Indies in the countries and parts of Asia and Africa,' and with all places of Asia and Africa and America 'beyond the Cape of Bona Esperanza to the Straits of Magellan.' Directed by a Governor and twenty-four Committees, the East India Company had many of the powers which were given to the Levant Company.<sup>1</sup> In 1609 James made the corporation perpetual.<sup>2</sup>

The gild-like membership, under which a man received his freedom because he was his father's son or his master's apprentice, was gradually to change into the modern membership based on mere holding of shares.<sup>3</sup> At first, if the subscribers to one Indian voyage did not subscribe the whole stock required for the next, outsiders might be admitted.<sup>4</sup> In 1615 the conditions of admission were defined. Mere merchants were to pay £50, and shopkeepers 100 marks; gentlemen were to be admitted 'as formerly' upon such terms as the Governor thought fit, 'according to the quality of the persons.' Freemen could make one son free (if under twenty-one years at the father's admittance) for a payment of 40s. to the 'poor's box'; other children (under fourteen at the father's admittance), and servants, for a payment of 10s. 'Executors or such as should marry the widows of any brethren' were to have no special favour, but to come in 'according to their quality, as they are either merchants, shopkeepers, or otherwise.' To prevent inconveniences 'by having adventures sold unto foreigners,' it was proposed 'to have none sold hereafter unto any but brethren of the company.' 'But that being held too prejudicial to such as shall sell, it was held fit to give notice before any such sale that, if any such shall buy that are not free, they must buy their freedom before they can have any adventure, or else must let the adventures rest still in their names that shall sell them.'<sup>5</sup> By 1693 the patents expressly incorporate all shareholders, and specify forms for the transfer of shares.<sup>6</sup> Further progress has been made when the purchaser of a company's shares need no longer take the oath of admission.<sup>7</sup>

<sup>1</sup> Cf. *post*, pp. 30-43. The points of difference from the Levant charter chiefly concern export of bullion (£30,000, of which £6000 must first be coined at the Mint) and Customs (see pp. 38 (1), 41 (1)).

<sup>2</sup> *Patent Rolls*, 7 Jac. I., pt. xi.

<sup>3</sup> For an instance of the former, see the conditions of membership in the French Merchants Company, *post*, pp. 68-9. Of the latter the Mines Royal provide an example as early as 1588 (see *post*, pp. 10-11).

<sup>4</sup> *Court Book*, ii., p. 30 (15 May 1607); even merchant strangers, *S.P.D.*, Warrants, i. 52.

<sup>5</sup> *Court Book*, iii., pp. 534-5. Early in the same month the Company decided to sell '£200 adventure' by the candle, 'whereby they may better know the worth of their said adventures, which will give a reputation to the voyage if it shall be well sold' (*ibid.*, p. 506).

<sup>6</sup> See *post*, p. liii. (9). Note growth of the feminine shareholder, pp. 188-9, 197, 249, 250, 257 (cf. p. 245 'him or her'). For rights of widows see *ante*, p. xxv. (4), and cf. 'Widdowe Trouill,' *post*, p. 124.

<sup>7</sup> Cf. *post*, p. 230 (1).



The first East India traders worked for joint profit in single voyages, the enterprise being too great a risk for the private trader, who was also discouraged because he tended to smuggle and to undersell. As the adventure became less experimental and began to produce tangible results, and as the grip of the directors became more firm, the separate subscriptions and managements were in 1613 merged into one joint stock to cover four years' trade.<sup>1</sup> There had been difficulty in making separate estimates of annual expense, in making separate assessments upon capital, and in obtaining punctual winding-up of slowly realised assets which required to be carried over from year to year.<sup>2</sup> A step had been taken towards permanence by 1657, when Cromwell approved the management of the East India trade by a 'united joint stock.'<sup>3</sup>

The covenant that the Crown would not license non-members to trade to the East Indies seems to have been infringed in 1604 when Sir Edward Michelbourne,<sup>4</sup> 'his associates and company,' received liberty to discover 'Cathia, China, Japan and Cambaia,' and to trade with the people there 'not as yet frequented and traded unto by our subjects,' any restraint, grant or charter notwithstanding.<sup>5</sup> Two years later Richard Penkevell and others obtained a seven years' grant for discovering and acquiring lands in the East.<sup>6</sup> This Penkevell was one of the patentees when in 1612 the voyage of Hudson led to the erection of a *Governor and Company of the Merchants of London Discoverers of the North West Passage*.<sup>7</sup> In this body, which hoped to trade to Tartary, China, Japan, Chili and the Philippines, the East India Company had a friendly interest.<sup>8</sup> It was a far different matter when James established a Scottish East India Company,<sup>9</sup> which eventually had to be bought out.

<sup>1</sup> £400,000 was thus subscribed (*S. P. Dom.*, Jac. I., lxxv. 28).

<sup>2</sup> See reference in Court Books to purchase of 'remains' of previous year's stocks (see Scott, ii., p. 103). Incidentally, as Dr. Scott suggests (*ibid.*, p. 101), the superstitious would avoid the name 'Thirteenth Voyage.'

<sup>3</sup> See *S. P. Dom.* Interregnum, clii., p. 272; I., lxxvii., p. 692: and the First Preamble for subscriptions, India Office, *Parchment Records*, 20A.

<sup>4</sup> An original member of the India Company, disappointed of command, and disfranchised as a defaulting subscriber.

<sup>5</sup> *Patent Rolls*, 2 Jac. I., pt. viii. (Rymer, xvi. 582).

<sup>6</sup> *Patent Rolls*, 4 Jac. I., pt. ix. (Rymer, xvi. 660), repeating the remarkable grant to Adrian Gilbert (see *ante*, p. xxxvii.) except as follows:—Penkevell was limited to

lands of heathen and infidels hitherto unpossessed by Christians and unfrequented by Englishmen: the tenure was to be as of East Greenwich in common socage: the royal tenth is altered to the more usual fifth, and a proviso for the consequences of robbery and spoliation is added.

<sup>7</sup> *Patent Rolls*, 10 Jac. I., pt. xviii.

<sup>8</sup> The King, 'as some extraordinary means to grace and honour the enterprise,' created his son ('immediately under ourselves, whose protection is universal') supreme protector thereof. The common seal was to bear the royal arms and the Prince's three feathers.

<sup>9</sup> See *ante*, p. xxxiii. The grant was for the E. Indies, Asia, Africa, and America 'beyond the Cape of Bona Sperantia unto the Straits of Magelen,' Levant, Greenland, Muscovy, etc., *State Papers*, C. O. 77, I. No. 65.

After the massacre of Amboina, James offered to become a partner and adventurer in the English Company, 'but their Counsel declared that, if the King were admitted, the whole right of the Company's stock would devolve to His Majesty, for there can be no partnership held with the King.'<sup>1</sup>

Charles also, while protesting that he was merely encouraging discovery and meant no hindrance to the Company,<sup>2</sup> licensed outside adventurers. Endymion Porter, William Courten and others were given a five years' privilege for Goa, Malabar, and the coasts of Japan and China.<sup>3</sup> The King complained that, in spite of the East India merchants' manifold privileges, they had never planted, settled or made forts in those parts for the encouragement of future trade; there was, moreover, no annual benefit to the Crown, but a daily decrease in the customs revenue, attributable to the company's 'supine neglect.'

Cromwell could not afford to treat with disfavour the great trading companies even if they had been countenanced by the Court party. He was himself a royal borrower,<sup>4</sup> and loans and charters went often together. Of Oliver's charter (dated 19th October 1657) no copy is at present known,<sup>5</sup> though its contents may be surmised. While insisting that all traders should have a chance of admission,<sup>6</sup> he provided for a united joint stock with exclusive privileges, promising 'to endeavour the settling of the same by an Act the next Session of Parliament' and to give all possible further encouragement.<sup>7</sup> Apparently in details he followed the older charters; no change seems to have been made in the corporate oath.<sup>8</sup> It was decided to omit a proposed

<sup>1</sup> *Court Book*, xi., p. 6 (2 July 1628). Compare *Co. Litt.* 16a, 190a; Lindley, *Partnership* (7th edn.), p. 378; and *post*, p. 110: but see pp. 176, 181.

<sup>2</sup> *Court Book*, xvi., Jan. 15 and Feb. 17, 1636.

<sup>3</sup> *Patent Rolls*, 13 Car. I., pt. xvi. Two years earlier Weddell and Mountney had a patent for Goa and Malabar. Weddell had wide powers of executing for murder or mutiny, acting under martial law, punishing delinquents, deciding cases of contract, &c. The two could use a common seal and fly the Union flag. When Courten died, his son, with Porter, Kynaston, Bonnell and others, were confirmed in the privileges (see Rymer, xx. 146 and *Court Books*, 1635-9, *passim*).

<sup>4</sup> The Company were pressing him for

repayment of £50,000 in Oct. 1657 (*Court Book*, xxi., p. 316).

<sup>5</sup> See Scott, ii., p. 128 (6).

<sup>6</sup> *Court Book*, xxi. p. 319.

<sup>7</sup> First Preamble, see *ante*, p. 1 (3).

<sup>8</sup> In 1647 some intending adventurers refused the oath as partly expressing allegiance to the King. Counsel advised that the Company might alter the oath, or admit the dissenters under contract and not as freemen. The latter course was taken, the entrance fees being refunded (*Court Book*, xxii., pp. 9, 11-2). In 1657 some new subscribers objected to the oath, some 'being wholly against the thing itself.' Somebody drafted a fresh oath, but the Court rejected it as 'not agreeable to the charters' (*ibid.*, xxi., pp. 317-9).



clause for the exercise of martial law, and not to include for the present a general immunity from tonnage and poundage or from customs on victuals, ammunition, and necessities transported abroad.<sup>1</sup> Charles II. obtained a loan by repeating with certain additions the charter of James.<sup>2</sup> Amongst other provisions,<sup>3</sup> cases of crime or misdemeanour in Indian factories where no Governor and Council existed were to be transmitted by the local Chief Factor to some factory where justice might be executed, or to England, as might be convenient. Power was given to take out of England ships, men, and ammunition, to make peace or war with any non-Christian peoples, to exact compensation for damage, and to erect and furnish castles at St. Helena and elsewhere.

The cession of Bombay by Portugal and the recapture of St. Helena occasioned the next two charters.<sup>4</sup> The former privileges were granted afresh in 1677<sup>5</sup> upon a doubt whether they had not been imperilled by mis-user or non-user, and by the omission to account to the Crown for the moiety received by fines and forfeitures. All previous contempts, misdemeanours and offences were pardoned, whether committed 'by exceeding the limits of the powers and authorities' granted to the company, or by any abuser or non-user.<sup>6</sup>

'Considering of what import it is . . . to endeavour the utmost improving of the said trade, and being fully satisfied that the same can by no means be maintained and carried on with such advantage as by a joint stock, and that a loose and general trade will be the ruin of the whole,' Charles II. added in 1683<sup>7</sup> new rights of entering ships, vessels, houses, shops, cellars or warehouses, and seizing the ships or goods of offenders. Other privileges concerned military operations, martial law, and Courts of Judicature as already conceded to the African Company.<sup>8</sup>

<sup>1</sup> See resolutions of the Council, 1 Oct. 1657 (Oliver present), *S. P. Dom. Interreg. i.*, lxxviii., pp. 189-190. There was to be a separate martial law commission, with clause for revocation.

<sup>2</sup> *Patent Rolls*, 13 Car. II., pt. x. He requested £30,000, and was lent £10,000 (*S. P. Dom.*, Car. II., liv. 32).

<sup>3</sup> Customs officers were not to permit entries of unlicensed merchandise of Asia, Africa and America: £500 stock was to carry one vote: settlements and forts were to be under the control of the company and its officers: unlicensed traders could be seized and sent to England.

<sup>4</sup> *Patent Rolls*, 20 Car. II., pt. i. (the company were to be 'true and absolute lords and proprietors' of Bombay at a

rent of £10: the inhabitants to enjoy the Roman Catholic faith, and the King's subjects there to submit to the new rule). *Patent Rolls*, 25 Car. II., pt. iv. (reciting the value of St. Helena for 'refreshing of their servants and people in their returns homewards' from hot climes).

<sup>5</sup> *Patent Rolls*, 28 Car. II., pt. i.; there was also a power to coin money in Bombay.

<sup>6</sup> The final *non obstante* clause refers to the Statutes of 2, 10 and 14 Edward III. and 13 Richard II., dispensing *inter alia* with 'the non-naming of the several persons hereby pardoned . . . or the not expressing their places of abode or additions.'

<sup>7</sup> *Patent Rolls*, 35 Car. II., pt. iii.

<sup>8</sup> See *post*, pp. 176-7, 191-2.

Not merely the bickering of interlopers, but also the general hostility to bodies politic and to monopolies, is revealed by the arguments in the action which the company began at this date against Thomas Sandys, an unlicensed trader.<sup>1</sup> Sandys pleaded that the sea was by statute<sup>2</sup> open to all manner of merchants, and that a patent which purported to exclude subjects from trade must be void. 'Regulated' companies ('wherein every man knows his creditor and his debtor') were extolled at the expense of joint-stock bodies (with which 'every man who trades has a creditor, or debtor, he knows not whom'), although even in 'regulated' companies members were obliged to pay certain impositions for the common expenses of the trade.<sup>3</sup> There was much abuse by Pollexfen of the trading entity, the 'invisible merchant that no one knows where to find,' the body politic which 'in judgment of law has neither soul nor conscience and yet forsooth are traders.' 'Take them all apart, they are as just and as good people to deal with as can be; but take them in a body, what more hard to deal with than a corporation?'<sup>4</sup>

Jeffreys considered that 'by the joint stock and industry and expense of the Company' the East India trade had become settled, 'facile and valuable.' Sandys and his partners ('very zealous now to reap the fruits of the Company's labours'<sup>5</sup>) ought not to have all the benefit and none of the charge. The patent (after a long review of the previous grants to trading partnerships and corporations) was triumphantly upheld, and was further confirmed by James II. in 1686.<sup>6</sup> The increase of military and naval powers in the new charter bears witness to the needs of the company at this time.<sup>7</sup>

In 1693 the validity of the charters was doubted because of the non-payment of a quarterly tax of five per cent. recently imposed by statute.<sup>8</sup> The Crown, 'well weighing what disorders and inconveniencies would befall' if forfeiture were insisted upon, reincorporated the shareholders<sup>9</sup> subject to their submission to royal directions shortly to be

<sup>1</sup> Cobbett, *State Trials*, x., pp. 371, &c.

<sup>2</sup> 18 Edw. III., c. 3. See *ante*, p. xv.

<sup>3</sup> 'It is as hard,' answered Jeffreys, 'to get into the Turkey Company as it is into this, and may be more chargeable' (owing to the insistence on freedom of the City; see *ante*, p. xli. (9)), *State Trials*, x., at p. 551.

<sup>4</sup> *Ibid.*, p. 431.

<sup>5</sup> *Ibid.*, p. 455.

<sup>6</sup> *Patent Rolls*, 2 Jac. II., pt. vi. James had invested £10,000 (£3000 in 1684 and £7000 in 1687) in the Company's stock (*Commons' Journals*, x., p. 154).

<sup>7</sup> Damage from native princes is recited, for which the Company intended to obtain satisfaction 'in a peaceable way if in that manner it be attainable, and, if not, by force of arms.'

<sup>8</sup> Under 4 W. & M., c. 15, s. 7.

<sup>9</sup> Certain persons named, and all 'who were members of the said Company . . . on 24th March now last past who have not since parted with their stocks,' and all who since that date, 'by buying stocks or otherwise, have come into and remain in a capacity of being members of the said Company' (see *ante*, p. xlix.).



made.<sup>1</sup> The following month saw a further charter,<sup>2</sup> designed to render the trade 'more national, general and extensive than it hitherto hath been.' All persons who paid subscriptions were to be admitted members.<sup>3</sup> A joint stock of twenty-one years was set afoot, private trading being forbidden. All goods were to be sold openly 'by inch of candle,' in lots of no greater value than £500 (except in the case of jewellery). A contract was included for annual supply of 500 tons of 'good, clean and merchantable saltpetre' to the Crown at a fixed price.

Changes of organisation were subsequently made.<sup>4</sup> The method of voting power, for instance, was varied 'because at present the greatest numbers of the adventurers are excluded from their General Courts, and the majority of votes lies in a few hands.'<sup>5</sup> In future, £500 was to carry one vote; a sliding scale was fixed for larger holdings.

A more important change followed the passing of an Act 'for raising a sum not exceeding two millions upon a fund for payment of annuities after the rate of eight pounds per annum, and for settling a trade to the East Indies.'<sup>6</sup> The subscribers were incorporated as *The General Society entitled to the advantages given by an Act of Parliament for advancing a sum not exceeding two millions for the service of the Crown of England*.<sup>7</sup> Under a clause in the Act, subscribers who wished to unite in a joint stock might (if not less than one million were subscribed) be incorporated accordingly. Thus there came into existence the *English Company trading to the East Indies*,<sup>8</sup> and the struggle between the 'joint stock' and the 'regulated' type of company was decided by making provision for each of the two.

Amongst the many details concerning finance, exports, imports and customs revenue in the English Company's charter, a direction was included for the maintenance in St. Helena and in all garrisons and superior factories of ministers and schoolmasters. 'A decent and convenient place for divine service only' was to be set apart; every

<sup>1</sup> *Patent Rolls*, 5 W. & M., pt. v.

<sup>2</sup> *Patent Rolls*, 5 W. & M., pt. v.

<sup>3</sup> £1000 stock carried one vote. The Governor and Deputy must hold £4000 stock, and the Committees £1000. The general stock was increased by £744,000; no one could subscribe more than £10,000. Books were to be kept to record transfers.

<sup>4</sup> See *Patent Rolls*, 6 W. & M., pt. vi., confining freedom to natural-born or naturalised subjects, and providing that the Governor or Deputy should not serve more than two years running, and that of the twenty-four committees chosen each year eight should be persons who had not served the year before. Stricter super-

vision of corporate property, contracts and cash was introduced.

<sup>5</sup> *Patent Rolls*, 10 W. & M., pt. vi.

<sup>6</sup> 9 W. III., c. 44.

<sup>7</sup> *Patent Rolls*, 10 W. III., pt. vii. Compare the method of the Bank of England incorporation, *post*, p. cxv.

<sup>8</sup> *Patent Rolls*, 10 W. III., pt. x. A form for transferring shares is specified: stock might be devised by will: membership of women was contemplated by the use of the words 'he or she.' (Cf. *ante*, p. xlix. (6).) Members were to swear (Quakers to make solemn declaration in writing) that they would not trade privately.

ship of five hundred tons was to carry a chaplain ; no minister was to be sent out unless approved by the Archbishop of Canterbury or the Bishop of London ; and all ministers resident in India were to learn the Portuguese language within a year of their arrival, and apply themselves also to master the local native speech.<sup>1</sup>

The privileges of the pre-existent East India Company were to determine in 1701. A tripartite indenture between Queen Anne, the old company and the English Company,<sup>2</sup> shows the position in 1702. The old company had invested £315,000 (bringing in £25,200 yearly) in the General Society. The English Company had a capital of £1,662,000. To settle all disputes the old company bought as much stock in the English Company as would make the share of each company equal. These stocks were to be united for seven years for equal trading ;<sup>3</sup> after seven years the English Company alone was to carry on the trade,<sup>4</sup> changing its name to the *United Company of Merchants of England trading to the East Indies*. In 1708 an award by Godolphin completed these arrangements, and in the next year the Crown accepted the surrender of the old charters, and granted the debts of the old company to the new.<sup>5</sup>

The later story of the United Company and its further patents<sup>6</sup> falls outside our period. From this outline of the companies encouraged by Elizabethan charters to trade abroad, we turn now to a different field of corporate enterprise.

## VIII

Next to the influence of the explorer upon the development of the chartered company came that of the inventor.<sup>7</sup>

The industrial backwardness of England made it the plain duty

<sup>1</sup> Compare the spirit of the Society for the Propagation of the Gospel (*Patent Rolls*, 13 W. III., pt. i.) and the provisions in the South Sea Charter (*Patent Rolls*, 10 Anne, pt. v., *post*, p. cxxix.).

<sup>2</sup> *Patent Rolls*, 1 Anne, pt. x.

<sup>3</sup> Directed by twenty-four 'managers of the united trade' (twelve selected by each body).

<sup>4</sup> The old company covenanted to keep their stock as a corporate undistributed asset for seven years. The dead stocks of both companies (valued at £400,000) were to be taken over by the English Company, whose charter the Queen confirmed.

<sup>5</sup> *Patent Rolls*, 8 Anne, pt. i.

<sup>6</sup> A charter of 1726 (*Patent Rolls*, 13

Geo. I., pt. ii.) gave considerable judicial powers (a Mayor's Court, a Sheriff and Quarter Sessions) to certain populous factories. The consequent fines were granted to the Company (*Patent Rolls*, 1 Geo. II. pt. vii.). In 1753 a fresh charter dealt with the situation caused by the dispersal, death or absence of the corporators of the corporation of Madraspatnam, besieged and captured by the French (*Patent Rolls*, 26 Geo. II., pt. ii.).

<sup>7</sup> The 'inventor' of a process or a machine included not only the original deviser thereof, but also the first Englishman who came upon and introduced the result of a foreigner's ingenuity. See *post*, p. cxi. For inventors' patents generally, see Hulme; *L.Q.R.* xii. p. 141 : xvi. p. 44.



of our statesmen to attract and protect the foreigner who had anything to teach. As early as 1331 a certain John Kempe, *textor pannorum laneorum*, received a patent of protection<sup>1</sup> for himself, his men, servants, apprentices, goods and chattels, that he might instruct and inform all who were willing to learn; a promise was added of similar protection to other men of that mystery, dyers and fullers, willing to come hither from overseas and remain for the same purpose. A few years later Willelmus and Hanekinus, Brabant weavers, obtained a year's protection<sup>2</sup>; then three clockmakers of Delft<sup>3</sup> were encouraged to come over, and, in the reign of Henry VI., John of Schiedam with his process of salt-making,<sup>4</sup> and some miners of Bavaria possessing *scientiam operandi in mineris meliorem*.<sup>5</sup> Although the lawyers had precedents (in grants to schools and towns<sup>6</sup>) for preventing work being done by any but the grantees, it is to be noted that there is as yet no hint of monopoly. These grants are no more than passports. A curious parallel is afforded by the patent of 1456 whereby Henry VI., having heard report of a certain most precious medicine called the Elixir or Philosopher's Stone,<sup>7</sup> and meditating how delectable and useful its discovery would be, appointed certain persons to investigate and make transmutation, taking them and their servants *in defensionem nostram, tuitionem et protectionem nostram specialem*.<sup>8</sup> Such protection was necessary, unless experiment was to be hindered as illegal,<sup>9</sup> and

<sup>1</sup> *Patent Rolls*, 5 Ed. III., pt. i. (see Rymer, iv., 496). See *ante*, p. xv. (3) as to merchants' permission to go and come.

<sup>2</sup> 1336: *Patent Rolls*, 10 Ed. III., pt. ii. (see Rymer, iv. 723). An Act of the following year (11 Ed. III. c. 5) promised to foreign clothworkers protection and franchises *tantes et tieles qe les suffiront*.

<sup>3</sup> *Sciatis quod suscepimus in protectionem et defensionem nostram necnon in saluum et securum conductum nostrum . . . veniendo in regnum nostrum artificio suo predicto in eodem regno utendo* (*Patent Rolls*, 42 Ed. III., pt. ii.: see Rymer, vi. 590).

<sup>4</sup> *Sciatis quod pro eo quod nuper ut informamur certus modus conficiendi sal in hoc regno nostro Anglie magis abunde quam temporibus retroactis fieri solebat repertus est* (compare this beginning and the recitals printed *post*, pp. 20, 148, 212), *propter quod expediens videtur pro re publica venire facere de Hollandia et Zellandia gentes . . . doctas in hac re et expertas* (see Rymer, x. 761). Safe-

conduct is accordingly given to sixty or fewer persons.

<sup>5</sup> Rymer, xi. 317; a slightly more elaborate form.

<sup>6</sup> See the grants of local monopoly to St. Paul's School (1138) and Eton (1446) in Leach's *Educational Charters*, pp. 90, 412, and the Oxford and Cambridge monopoly of holding a university (1334), *ib.*, p. 286. As to towns, see Cunningham, *Growth of English Industry and Commerce*, i., pp. 518-9.

<sup>7</sup> *Cum antiqui sapientes et famosissimi philosophi . . . docuerint . . . quandam preciosissimam medicinam, quam aliqui philosophorum matrem et imperatricem medicinarum dixerunt, alii gloriam inestimabilem eandem nominaverunt, alii vero quintam essentiam lapidem philosophorum et elixir vite . . .*

<sup>8</sup> *Patent Rolls*, 34 H. VI., m. 7. Cf. Frobisher's licences, *ante*, p. xxxv. (4).

<sup>9</sup> See the patent for transmuting base metals into gold and silver *licite et impune* to De Trafford and Asheton, *Patent Rolls*, 24 H. VI., pt. ii., m. 14.

especially as contravening the statute which made the multiplication of gold or silver a felony.<sup>1</sup> But a grant in this form, though it licenses experiment and encourages invention, does not contemplate the ultimate private gain of the inventor. As late as 1554, when certain Norwich capitalists had introduced a foreign method of fustian-weaving, the statute which rewarded them with incorporation contemplated not so much the exploiting of the monopoly in a new invention as the erection of a gild with power to regulate and search, to seal good work and punish bad.<sup>2</sup>

When, however, Elizabeth and her advisers went to work to attract the foreign inventor, some form of exclusive privilege became necessary; the Crown had little money to reward him, and he insisted that he must be protected in some fashion from competition and the theft of his ideas. Thus Giacompo Acontio<sup>3</sup> set forth the value of inventions, the great expenses and absence of income during the period of experiment, and the consequent loss. *Quare, cum tandem etiam placuerit Deo mihi mentem aperire ad inventa quaedam publice maximo usui futura . . . , cumque certum sit fore ut, postquam evulgata fuerint haec inventa, quilibet, nisi constituta poena cohibeatur, absque meo consensu usurpaturus ea sit, ex quo sequetur ut mihi alioqui valde inopi ex meis vigiliis laboribus impensisque eorum causa susceptis nullum rediturum sit commodum.* Acontio therefore asked for a grant of exclusive manufacture for twenty years.<sup>4</sup> This he received some years later in 1565,<sup>5</sup> Elizabeth repeating many of his phrases with approval and giving him his prohibitory clause in almost the exact form which he had suggested.<sup>6</sup> Thus a foreigner's petition provided a precedent.<sup>7</sup> This was not, however, the first case of the kind. In the first year of her reign Elizabeth had been asked by George Cobham and Tomaso Chanata, 'with others of their company,' to encourage the introduction of 'an instrument to cleanse and carry away all shelves

<sup>1</sup> Statute 5 H. IV. c. 4 (*que nully desorenavant use de multiplier or ou argent ne use le art de multiplication*). See Dyer, f. 88a: Coke, 3 Inst., c. 20. See the licence in *Patent Rolls*, 34 H. VI., m. 13.

<sup>2</sup> 1 and 2 P. & M., c. 14.

<sup>3</sup> A naturalised native of Trent (see *Patent Rolls*, 2 Eliz., pt. i., and 3 Eliz., pt. vi.), also concerned in reclaiming flooded land.

<sup>4</sup> *S. P. Dom.*, Eliz. (Add.), ix. 39. Compare the similar claims of explorers ante, pp. xxxiv.-xxxv., and post, p. 99 (2).

<sup>5</sup> *Patent Rolls*, 7 Eliz., pt. ix.

<sup>6</sup> *Ne quisquam subditorum nostrorum . . . inter annos viginti proxime sequentes ullam talem vel machinam vel fornacem*

*fabricare audeat aut fabricari sibi curare aut fabricatis uti, neque ratione aliqua ad ullum usum eas imitari neque privato nomine neque publico neque quocumque alio, absque ipsius Jacobi Acontii heredum aut assignatorum consensu, sub pena centum librarum legalis monete Angliae, pro una medietate scaccario nostro ad usum nostrum et pro altera medietate ipsi Jacobo Acontio adjudicandarum, necnon sub pena summe nostre indignationis.*

<sup>7</sup> Possibly Acontio took this phrasing from some Continental precedent. As to such grants abroad see Price, *English Patents of Monopoly*, pp. 3-4.



of sand, banks, ooze and such like out of all rivers, creeks and havens.' They asked for a twenty-five years' exclusive grant, backed by a penalty of 100 marks and forfeiture.<sup>1</sup> They were granted no longer term than ten years, and no more definite penalty was laid down than the royal displeasure 'and danger of such punishment as shall be thought meet.'<sup>2</sup> One sentence announces the royal policy: Elizabeth gives the privilege 'minding by the favourable using of the said George in this matter to give courage to others to study and ask for the knowledge of like good engines and devices.' For a more enduring establishment it proved easy to engraft upon a privilege of this kind the words and clauses proper to corporateness.

Other foreigners came over under agreement to teach the English. For £300 Gerrard Honricke of Germany bound himself to show his art of making saltpetre to whomsoever it should please Her Majesty.<sup>3</sup> He had to promise to put it on paper,<sup>4</sup> as well as he could, with full particulars of the best places and materials. Anthony Becku, *alias* Dolin, and Jehan Quarré or Carré obtained in 1567 a twenty-one years' exclusive grant,<sup>5</sup> binding themselves within that term to teach Englishmen their 'science of glass-making effectually, so as the same science . . . may here remain in the Realm and be practised by Englishmen.'<sup>6</sup> Perhaps the system of apprenticeship helped to plant the foreign inventions more permanently. Among clauses which may be found at this time are stipulations that the new machine or process shall be proved workable,<sup>7</sup> that work shall begin within a certain

<sup>1</sup> *S. P. Dom.*, Eliz., i. 56. They also asked leave to export 3000 tuns of beer without impost, offering, to import 2000 quarters of corn.

<sup>2</sup> *Patent Rolls*, 4 Eliz., pt. x. The grant is to George Brooke, otherwise Cobham.

<sup>3</sup> There were complaints of foreigners keeping their secret processes to themselves. See letters to Cecil from Humphrey (*S. P. Dom.*, Eliz., xxxvii. 73), and from Thurland (*ibid.*, xxxix. 80), in respect of mining processes.

<sup>4</sup> *Que dicy a — jours il baillera par escript à sa Majesté . . . la description et façon de composer et faire ledict saltpetre mise au long etc.* See the articles of agreement, *S. P. Dom.*, Eliz., xvi. 30. The full recipe in English may be seen *ibid.*, 29. The Queen afterwards assigned 'the feat and art of the making of saltpetre' for ten years to Philip Cockeram, mercer, and John Barnes, haberdasher.

The process is not indicated, nor Honricke's name mentioned; there is a clause of prohibition and forfeiture. (*Patent Rolls*, 3 Eliz., pt. vi.): see further *post*, p. lxxx.

<sup>5</sup> See Petition of Briet and Carré for permission to set up glassworks *en la cité de Londres à la façon de ceux de Venise* (*S. P. Dom.*, Eliz., xliii. 42, where see 43, 44 and 45). Cecil assisted them, and to their surprise declined any reward.

<sup>6</sup> *Ibid.*, 46.

<sup>7</sup> See, for example, the case of Nenner and Zolcher (*Patent Rolls*, 16 Eliz., pt. iv.) who were bound within a year to set up and prove efficient their fuel-saver: see also the provision for inspection by town authorities in Groyett and le Leuryer's grant in 1561 for white soap (*P. R.*, 3 Eliz., pt. vi.), and by the Leathersellers' Wardens in Heuxtenburg and Verberick's grant for Spanish leather in 1565 (*P. R.* 7 Eliz., pt. v.). Cf. the soap trials, *post*, pp. lxxv., lxxvi.)

time,<sup>1</sup> that a proportion of native workmen be employed<sup>2</sup> (a policy to which we have recently returned<sup>3</sup>), that prices be not extortionate,<sup>4</sup> and that established manufacture by old methods be not barred.<sup>5</sup> Thus the public interests were protected; where private ownership was invaded, machinery for compensation was set up<sup>6</sup>; monopolies were as yet part of an honest and unobjectionable economic policy. Cecil had to make bricks without straw. He had to introduce and foster industries, to provide within the country alum for wool, to obtain metal for ordnance, saltpetre for gunpowder, timber, ropes and sailcloth for ships, so that England could fight the Armada on level terms. Hence such expedients as the statutory fish diet; hence the bait of monopoly held out to catch the skilled foreigner. The direct cost to the country of a grant of exclusive manufacture was nothing: the indirect profit might be immense. Nor was the prohibitive element in such grants so uncompromising in practice as on paper.<sup>7</sup>

<sup>1</sup> See, for example, the agreement of Becku and Carré, which is to be void unless before Christmas 1568 glass is made 'by setting up two furnaces perfectly and keeping the same in working' within the Realm. (The words cited are added in Cecil's handwriting to the draft (*S. P. Dom.*, Eliz. xliii. 46) and illustrate (if this were necessary) his policy and attention to detail). See also Wilkes' white salt grant (*Patent Rolls*, 27 Eliz., pt. vi) (work to begin forthwith); Gylpin and Stoughberken's grant for ovens and furnaces in 1563 (*P. R.*, 5 Eliz., pt. i.) (work to begin in two months); the draining engines of Goldinge (*P. R.*, 13 Eliz., pt. ix.) and Synertson (*P. R.*, 15 Eliz., pt. v.), and Spence's white salt process (*P. R.*, 24 Eliz., pt. ix.) were all to be set going within two years. Compare the provisions, *post* pp. 236, 240; and the Companies (Consolidation) Act, 1908, s. 129 (iii.).

<sup>2</sup> See, for example, Groynet's grant (*supra*), which insisted that at least two of the workmen should be of native birth; Heuxtenburg's (*supra*), which required one English apprentice for each foreign workman.

<sup>3</sup> See the Patents and Designs Act, 1907 (7 Ed. VII., c. 29, s. 27), under which patents worked outside the United Kingdom may be revoked.

<sup>4</sup> See, for example, Gylpin's grant (*supra*), and Langdale's (for making

sackbuts and trumpets: *Patent Rolls*, 25 Eliz., pt. ix.): cf. later instances of regulation of price, *post*, pp. lxxvi., lxxvii.

<sup>5</sup> Cobham's grant (*supra*) had a proviso 'that every man may in this mean time use the old manner of scouring . . . havens . . . or any other of their own invention being not made like to this engine . . . as they might have done before.' Cockeram's grant (*supra*) provides that if the privileged process is proved defective in one year, 'then any one may make saltpetre in such sort as presently they do or shall to them seem best.' Compare *post*, pp. xciv., 47, 205, 214.

<sup>6</sup> This was specially necessary in grants relating to saltpetre (see Cockeram's (*Patent Rolls*, 3 Eliz., pt. vi.) which contained power to enter, search, and dig—differences of compensation to be settled before two neighbouring Justices: compare the procedure, *post*, p. 155); draining (see Medley's grant (*P. R.*, 5 Eliz., pt. iv.), differences referable to Privy Council; Burchsard Kranick's (*P. R.*, 5 Eliz., pt. ii.), referable to Warden of Stannaries and three Justices); water-supply (see *post*, p. cxxii.); mining (see *post*, p. 46), &c.

<sup>7</sup> See, for example, the treatment of Spillman's rival (*S. P. Dom.*, Eliz. cclxxvi. 6, cclxxxii. 6), of Edwards (*ante*, p. xxxiv. (3)), and of Steare (*post*, p. xcix.); cf. *ante*, p. xxxi., and as to fishermen, *post*, p. cv. (1).



If at this stage we set an Elizabethan patent of invention beside a patent of our own time, certain points of difference appear. In the sixteenth century there is no fixed period of monopoly, no systematic registration, and no regular fee, though the Crown might expect an allowance to replace loss on customs.<sup>1</sup> The grant is a personal matter between Queen and inventor; disregard of a royal prohibition is contempt of royal authority. But perhaps the chief contrast lies in the fact that the modern inventor must furnish, by way of provisional or complete specification, a sufficient account of his secret,<sup>2</sup> which the Elizabethan inventor was neither inclined nor (except where he specially bound himself to teach the English<sup>3</sup>) compelled to do. Cobham's petition gives little clue to the nature of his engine. Acontio—whose claim that inventors should enjoy the profits of their inventions and be protected from imitators has been already mentioned—discloses no secret in his application. Nor do the grants which they receive say more.<sup>4</sup> A special clause was developed from the familiar *Eo quod expressa mentio* dispensation,<sup>5</sup> to excuse Acontio from the consequences of non-description.<sup>6</sup> Since the sovereign was thus asked to give *carte*

<sup>1</sup> Carré undertook to pay such equivalent on his glass (*S. P. Dom.*, Eliz., xliii. 44): compare the clauses, *post*, pp. 119, 143. Sometimes (as in Spence's case (*Patent Rolls*, 24 Eliz., pt. ix.)) ; see also *post*, p. 236) the Crown fixed a rent, or obtained special rates of purchase: see the reservation to the Crown of one tenth of the sulphur made by Wade and Mekyns (*P. R.*, 19 Eliz., pt. viii.) and compare the clauses, *post*, pp. 123, 158.

<sup>2</sup> See Patents and Designs Act, 1907 (7 Ed. VII. c. 29). On application a provisional, and within six months a complete, specification 'must particularly describe and ascertain' the invention: otherwise the application is deemed abandoned (see ss. 2 and 5): as to the development of the specification see Hulme, *L.Q.R.*, xiii., pp. 315-8.

<sup>3</sup> See the case of Honricke, etc., *ante*, p. lviii. Cf. *post*, pp. xevii., cxi.-cxii.

<sup>4</sup> See, for example, the comparatively lengthy description in Acontio's patent (*Patent Rolls*, 7 Eliz., pt. ix.): *videlicet* [*rationes*] *quasdam quarum rote vento quidem movebuntur sed ita ut reliqua mole immota manente ventus undecumque flet rotas versaturus sit; quasdam que, tametsi earum rote aqua movebuntur, fluente tamen non indigebunt sed fabricate etiam ubi tantum sit stagnum aut paululum putealis*

*aque aut collective eundem tamen usum praebiture sint, et rationes alias ejus generis.*

<sup>5</sup> See *ante*, p. xv. Mr. Hulme points out the ancestry of Acontio's clause (*L. Q. R.* xiii., p. 313): it should be added that it is merely a development from, not a substituted form of, the *eo quod*; for that clause also appears at the end of the grant.

<sup>6</sup> *Non obstante quod expressa machinarum et fornacium superscriptarum mentio in his presentibus facta non sit neque ulla re alia.* Compare the fuller variants, *post*, pp. 216, 223. Cobham's grant, which is in English and brief, has nothing of the kind; nor has that of Grogett and le Leuryer, also in English: nor has Cavalcaunt's licence to import and sell 'anyle, otherwise called indacho' (*Patent Rolls*, 3 Eliz., pt. xiii.). Wade and Mekyns in their sulphur grant (English: see above, note (1)) have a non-description clause, but no *eo quod*. In the exclusive grants for printing specific books (which are closely parallel), the patents in Latin (see, for instance, Wolff, *P. R.*, 1 Edw. VI., pt. vii.; Jugge and Cawood, *P. R.*, 1 Eliz., pt. vii.) seem to use the *eo quod* oftener than those in English (see, for instance, Tottell (*P. R.*, 1 Eliz., pt. iv.); Seres (*ibid.*), and John Bodeligh (*P. R.*, 3 Eliz., pt. xiii.).

*blanche* to inventors, it is not surprising that they were asked to prove the utility and efficiency of their inventions by what sometimes became a public trial.<sup>1</sup> Not only was the privileged invention not specified, but the grant was occasionally so drawn as to cover all future inventions in the same field.<sup>2</sup>

These examples of letters patent for inventions are grants given to, and exploited by, a few persons. Companies they may have called themselves; corporations they were not. But mere partnership had its drawbacks, and in some cases Elizabeth gave to partners engaged in exploiting an invention the gift of corporateness which before had been more naturally conceded for the permanent management of a trade or profession, a city or town, or a collegiate institution, educational or otherwise.<sup>3</sup> The charters of two important mining concerns, the *Mines Royal*<sup>4</sup> and the *Mineral and Battery Works*<sup>5</sup> (which both date from the year 1568), show how a patent-holding partnership was developed into a corporation.<sup>6</sup> Soon afterwards the *Society of the New Art*<sup>7</sup> was incorporated to honour and reward Sir Thomas Smith for his supposed discovery of the transmutation of metals.<sup>8</sup> If we are to believe Strype,<sup>9</sup> one Medeley had in 1571 purported to change iron into copper by vitriol at the houses of Sir Thomas Smith in London and in Essex. A group of adventurers was formed to exploit the invention, and Medeley spent much time in the effort to discover the *primum ens vitrioli*. During Smith's absence overseas, Medeley quarrelled with Sir Humfrey Gilbert, who was interested in the concern, and activity was suspended. Smith came back to find workmen unpaid, rent owing, and no copper made. He persuaded the Lord Treasurer to assist him, to 'cull out of other statutes for other societies some good ones, the fewer the better'; an attempt was made to start afresh.<sup>10</sup> Medeley

<sup>1</sup> See *ante*, p. lviii. (7): cf. the famous soap trial in 1624 (*post*, p. lxxv.).

<sup>2</sup> See patent of Humphrey and Shutz (recited *post*, p. 16, and repeated in the incorporation at p. 47); Candish's mine-draining patent (*Patent Rolls*, 15 Eliz., pt. v.) covering other engines to be invented within the period; and Langdale's grant (*supra*). Compare the patents of discovery and occupation which cover lands discovered and to be discovered, and the flax patent, *post*, p. lxxxvii.

<sup>3</sup> See examples, *post*, p. cxxxiv.

<sup>4</sup> See patent printed *post*, at p. 4.

<sup>5</sup> See patent printed *post*, at p. 16.

<sup>6</sup> See *ante*, p. xvii.

<sup>7</sup> See patent printed *post*, at p. 20.

<sup>8</sup> See *post*, p. 23 (footnote). Compare the grants for the philosopher's stone (*ante*, p. lvi.), for which men were still looking in Elizabeth's time (see *S. P. Dom.*, Eliz., xl. 44): the recipe of Cornelius Lannoy survives (*ibid.*, Add. xxiii. 1, 2). Cf. *The Alchemist*, and statute 1 Jac I., c. 12.

<sup>9</sup> *Life of Sir Thomas Smith* (1820 ed.), pp. 100-5.

<sup>10</sup> Directions are given in *S. P. Dom.*, Eliz. (Add.), xiii. 122 (dated (?) 1567), that the New Art Society is 'to go forward as it is signed,' Medeley to be bound in £5000 that 'by colour of the said Society he nor no other for him shall multiply or make any gold or silver contrary to the laws of England' (see *ante*, p. lvii. The



was recalcitrant ; he held out for payment for the value of his experiments, his buildings and vessels. It is noteworthy that in 1575, three years after the first charter of the Society, a second charter was given which introduced Medeley's name,<sup>1</sup> but which neither recited nor even mentioned the previous patent.<sup>2</sup> After no long time the business failed, and Medeley is said to have ended in prison for debt in 1576.

Of the two great mining companies more will be said later.<sup>3</sup> Their charters serve to show how a single form of instrument was adapted for divers ends. If the Mines Royal charter be compared with the Merchant Adventurers' grants of 1505 and 1564,<sup>4</sup> it is apparent that many clauses are (but for verbal alterations) being repeated.<sup>5</sup>

## IX

Whether incorporation was designed to regulate a company of merchants, to encourage a joint-stock undertaking, or to organise a profession, charters constantly laid stress upon the need of good government. This object (naturally associated with power to elect officers and make by-laws) was best attained by an exclusive privilege, individual activity being prohibited except within the limits of corporate control. The prohibitive clause (especially if the privileged persons had more experience of the Court than of business) could hardly fail to provoke a sense of grievance.

The Elizabethan monopolies, of which complaint was made, were of several classes. There were simple grants of exclusive use of a process such as that of Procter and Peterson, who claimed to make iron with one-fourth the usual expenditure of timber fuel,<sup>6</sup> or such as the Venetian glass manufacture of Verselini<sup>7</sup> and afterwards of Bowes.<sup>8</sup> From such instances we pass to the wider grants by which Wilkes had the sole manufacture of salt in a certain district,<sup>9</sup> Spillman the sole right to erect paper-mills, buy rags and make paper,<sup>10</sup> or Richard Drake the sole right to brew *aqua vitae*.<sup>11</sup> Attached to Drake's grant was the

Society was to be bound to surrender its whole interest (being compensated for buildings, vessels, &c.) after twenty years if the Queen desire to resume her grant.

<sup>1</sup> See *post*, pp. 20-2 (footnotes)

<sup>2</sup> Compare the later charters to the Mineral and Battery Works *post* (p. 43), Starchmakers (p. 117), and Shields Salt-makers (p. 167), which seem to ignore the first charter. Cf. the analogous duty to recite previous grants, under 6 H. VIII., c. 15. See *post*, p. 181.

<sup>3</sup> See *post*, pp. xciii.-c., cxx., cxxx.

<sup>4</sup> See *ante*, pp. xiii., xxii.

<sup>5</sup> See *post*, pp. xc., 14 (1).

<sup>6</sup> *Patent Rolls*, 31 Eliz., pt. viii.

<sup>7</sup> *Patent Rolls*, 17 Eliz., pt. xiii.

<sup>8</sup> *Patent Rolls*, 34 Eliz., pt. xv., and 4 Jac. I., pt. xv.

<sup>9</sup> *Patent Rolls*, 27 Eliz., pt. vi., and 28 Eliz., pt. v ; see *post*, p. lxxiii.

<sup>10</sup> *Patent Rolls*, 39 Eliz., pt. xiii.

<sup>11</sup> *Patent Rolls*, 36 Eliz., pt. xi.

power of branding beer-barrels, which is comparable to Bellingham's 'office of surveying, searching, viewing, trying and sealing of all cordage,'<sup>1</sup> or the right of Raleigh to license inns<sup>2</sup> and of Cornwallis to license gaming-houses.<sup>3</sup> These are delegations of autocratic power, only less obnoxious than the authority given in certain cases to permit dispensations of penal statutes and to take the benefit of forfeitures. Into this class fall Dyer's authority in respect of the tanning statute,<sup>4</sup> the privilege of Byneon and Bennett in respect of gig-mills,<sup>5</sup> and that of Astley and Windebank relating to the felling of timber.<sup>6</sup> The storm which finally swept away these individual monopolists beat almost in vain upon monopolist corporations, for corporateness was founded upon the rock of industrial tradition.

Strong as was the resentment which the execution of these grants evoked, they at least pretended to serve and protect the interests of the public. Thus, Dyer's grant purported to be made in response to complaints from the tanners who had chosen him as their suitor to the Queen. It stated that 'by reason of the words unaptly placed in the penning of the same statute, contrary to the good meaning of the law-makers,' the Act was to some extent unworkable. Raleigh's patent purported to be designed to avoid the engrossing of inn licences in towns, and to prevent the sale in unfit premises of 'such corrupt, mingled, and unwholesome wines as were unmeet for the health of our people.' Drake's vinegar patent was to remedy unwholesome and quickly putrefying liquor, with its attendant dangers of infection and diseases in great cities and towns. Smith's grant was to restore the good effect of statutes which had 'by negligence and corruption of bad informers been of long time neglected,' so that leather had become worse and dearer.<sup>7</sup> It was intended that Cornwallis should remedy abuses of gambling, and, in licensing houses for dice, cards, tables, bowls, tennis play and cockfighting, should exact recognisances against fraudulent play, betting and the demoralisation of apprentices. Bellingham's office was to arrest the decay in the quality of cordage and oakum, and the danger to shipping, the Navy and the Commonwealth.

In addition, Bellingham and Drake had each to give security for proper conduct. Astley and Windebank, Smith, and Byneon and Bennett were limited in their powers of compounding with offenders.

<sup>1</sup> *Patent Rolls*, 36 Eliz., pt. xiv.

<sup>2</sup> *Patent Rolls*, 30 Eliz., pt. vi.

<sup>3</sup> *Patent Rolls*, 38 Eliz., pt. vi. Cf. Cotterell's grant (*P. R.*, 18 Jac. I., pt. xiv.).

<sup>4</sup> *Patent Rolls*, 18 Eliz., pt. iv.; see Statute 5 Eliz., c. 8. Compare Smith's grant (*Patent Rolls*, 37 Eliz., pt. xiv.).

<sup>5</sup> *Patent Rolls*, 36 Eliz., pt. xi.: see Statute 5 & 6 Ed. VI., c. 22.

<sup>6</sup> *Patent Rolls*, 31 Eliz., pt. viii.: see Statute 1 Eliz., c. 15.

<sup>7</sup> See above, note (4). See *Select Pleas in the Star Chamber* (Selden Soc.) II., pp. cxxiv.-vi.



Wilkes was to supply the public sufficiently and not raise prices;<sup>1</sup> while it became common to reserve a right to revoke the grant if it proved prejudicial to the Realm. And if in many cases the grant contained power to enter and search buildings, warehouses and ships, that power purports to be given for reasons as innocent as those which support government inspection under modern Factory and Workshop Acts. Moreover, Tudor workmen must have been accustomed to the search.<sup>2</sup>

Yet not all the Queen's grants were so well-meaning. The licences of sole export (for example, of 'lists, purrels and shreds' of woollen cloth and horns,<sup>3</sup> cast iron,<sup>4</sup> or beer<sup>5</sup>) and the licences of sole import of such commodities as starch<sup>6</sup> or anise-seed,<sup>7</sup> foreign pottery,<sup>8</sup> Irish linen yarn,<sup>9</sup> or playing-cards,<sup>10</sup> were useful means of raising money<sup>11</sup> or of awarding deferred wages to some Clerk of the Signet or of the Privy Council, some Groom or Yeoman of the Chamber, some Esquire of the Body or Master of the Jewels. The consideration for several of these grants was the 'true and faithful service' of the patentee;<sup>12</sup> for Elizabeth had no Civil List.

Such grants and impositions, collectively denounced as monopolies, grew in nature, in extent and in execution more odious towards the end of her reign.<sup>13</sup> For a time the strong patriotism and personality of Elizabeth hushed the murmurs. A vigorous message to Parliament in

<sup>1</sup> Compare the similar clause in Noell's grant for sole importation of foreign pottery (*Patent Rolls*, 35 Eliz., pt. iv.).

<sup>2</sup> See statute 28 Ed. I. c. 20 (goldsmiths), and various Acts of Henry VIII. relating to pewterers, curriers, coopers, dyers, and worsted weavers.

<sup>3</sup> *Patent Rolls*, 34 Eliz., pt. vi. (Furner and Crafford). There was a proviso that if any inconvenience appeared it should be remedied, and that the London Horners might sell in, and within 24 miles of, London as before. See the earlier grant, *Patent Rolls*, 25 Eliz., pt. xii. (Scott).

<sup>4</sup> *Patent Rolls*, 34 Eliz., pt. iv. (Nevill, Ingelstedt and de Vischer).

<sup>5</sup> *Patent Rolls*, 39 Eliz., pt. xv. (Carr).

<sup>6</sup> *Patent Rolls*, 30 Eliz., pt. ix. (Young); 36 Eliz., pt. xiii., and 40 Eliz., pt. xvi. (Pakington). See further, *post*, p. lxix.

<sup>7</sup> *Patent Rolls*, 26 Eliz., pt. iii., and 35 Eliz., pt. iii. (Dr. Lopes); 36 Eliz., pt. xi. (Alexander and Mompessons).

<sup>8</sup> *Patent Rolls*, 35 Eliz., pt. iv. (Noell).

<sup>9</sup> *Patent Rolls*, 41 Eliz., pt. xxiv. (Carmarden).

<sup>10</sup> *Patent Rolls*, 18 Eliz., pt. i. (Bowes and Bedingfield); 30 Eliz., pt. xii. (Bowes); 40 Eliz., pt. ix. (Darcy: see *post*, p. lxvi.).

<sup>11</sup> The consideration for the grant to Furner and Crafford was the discharge of the royal debt (£350) to 'the Master Gunner and other canoniers of our frontier Town of Ostend in the Lowlands.'

<sup>12</sup> See, for instance, Raleigh's grant. So also Wilkes' grant was said in 1590 to be 'in some reward of his service' and a principal part of his maintenance' (*Acts of the Privy Council*, 1590, p. 186). The Harebrownes' patent in 1582 (see *post*, p. lxv. (9)) was partly for relief of their decayed state after losses at sea. Compare the suggested purpose of the Irish plantation, *post*, p. lxxxi.

<sup>13</sup> Re-issue of expiring patents was common, sometimes for lengthened periods (the aniseed patent to Lopes for ten years, for example, became Alexander's patent for twenty).

1571 rebuked certain members who had shown themselves 'audacious, arrogant and presumptuous, calling Her Majesty's grants and prerogatives also in question, contrary to their duty and place.'<sup>1</sup> Her attitude was always that she had never assented to grant anything which was *malum in se*; if there was any abuse of her grant, 'she herself would take present order of reformation.'<sup>2</sup> In 1597, upon a further outburst of complaint, the Queen promised to leave the alleged monopolies 'to abide the trial and true touchstone of the law, hoping her subjects would not take away her prerogative, which is the chiefest flower in her garden and the principal and head pearl in her crown and diadem.'<sup>3</sup> Attack upon a patent or sympathy with infringers was contempt of the Queen, who 'cannot but be very sensible thereof as of a great indignity offered to herself.'<sup>4</sup> Reverence for the prerogative was the substance of Bacon's defence when in 1601 the House of Commons ventured to criticise monopolies.<sup>5</sup> Raleigh intervened to justify his tin patent, willing, nevertheless, 'if all others may be repealed,' to have it cancelled.<sup>6</sup> Cecil, admitting that the Queen might have been 'ill apprised' in her grants,<sup>7</sup> tried in vain to still the storm. Suddenly Elizabeth, with a royal sense of the occasion, came herself upon the scene and undertook the reform of the abuses. In a proclamation<sup>8</sup> which accused the patentees of 'false suggestions' of benefit to the Realm, she cancelled outright the salt, salt upon salt,<sup>9</sup> vinegar, train oil,<sup>10</sup> pottery, starch and certain other grants. Of the rest some (such as saltpetre) concerned the defence of the Realm, while others<sup>11</sup> were rewards for public service or to 'such as have been Her Majesty's ancient domestical servitors.' These, while still threatening punishment to those who should 'seditiously or contemptuously presume to call in question' her prerogative, she left to the law of the Realm 'any matter or thing in any of the said grants to the contrary notwithstanding.'<sup>12</sup>

<sup>1</sup> D'Ewes, *Journals of the Parliaments*, p. 151. See, at p. 175, mention of an anti-monopoly Bill as 'not to be tolerated.'

<sup>2</sup> *Ibid.*, p. 652.

<sup>3</sup> *Ibid.*, p. 547.

<sup>4</sup> *Acts of the Privy Council* 1600-1, p. 275.

<sup>5</sup> D'Ewes, pp. 644-5 (reprinted from Townshend by Price, *English Patents of Monopoly*, p. 154). Bacon made play with the proposed exception in favour of corporations, 'a gull to sweeten the Bill withal.'

<sup>6</sup> D'Ewes, p. 646.

<sup>7</sup> D'Ewes, p. 652.

<sup>8</sup> 28 Nov. 1601.

<sup>9</sup> See *Patent Rolls*, 24 Eliz., pt. xiii. (to the Harebrownes for mixing sea salt and Spanish salt).

<sup>10</sup> See *Patent Rolls*, 26 Eliz., pt. viii. (to James Humfry); re-issued to Matthews, 33 Eliz., pt. vii., and afterwards to his widow (see *Acts of the Privy Council*, 1599-1600, p. 443).

<sup>11</sup> 'As, namely, new drapery, Irish yarn, calf-skins, pelts, cards, glasses, searching and sealing of leather and steel, and the like.' Cf. *ante*, p. lxiv. (12).

<sup>12</sup> See the frequent clause reserving to Queen and Council the power to amend or revoke a grant; note the clause surviving in 1603-4, *post*, p. 50.



The significance of her decision will appear from the story of Darcy's grant for playing-cards.<sup>1</sup> The Privy Council in 1600 took notice that 'divers obstinate and undutiful persons' wilfully and publicly impugned his patent.<sup>2</sup> A haberdasher named Turner had his premises raided by Darcy's deputies and a constable. He brought an action in trespass at common law. The action was stayed and the matter referred to Sir John Fortescue and Mr. Secretary Herbert, who had been made special referees for complaints of infringement of this monopoly.<sup>3</sup> They decided that the action was maliciously brought and was in contempt of the grant. Turner, however, brought a fresh action in trespass. Warrants were issued for his apprehension, and the Council wrote to the Chief Justice of the Common Pleas and his fellow judges, desiring them to stay all proceedings till Turner appeared and answered for his contempt.<sup>4</sup> A further letter, stating 'Her Majesty's pleasure in that behalf that her Prerogative Royal may not be called in question for the validity of the Letters Patents,' directed the Court to order a stay.<sup>5</sup> In 1603 the Council directed that Turner and another haberdasher named Allen should be committed to prison if they would not cease to prosecute their former suits against Darcy.<sup>6</sup> Eventually the patentee brought action upon the case against Allen, alleging that he had been defrauded of the benefit (to the extent of £200) which he was to enjoy under his grant. A famous decision declared against the patentee.<sup>7</sup>

By this time James was King. He appointed a Commission to inform him what monopolies were offensive and burdensome to the subject.<sup>8</sup> Three days later he issued a proclamation in which, while 'not intending to renounce the ancient privileges descended upon the King,' he suspended (pending examination by the King in Council) all grants of monopoly 'except such grants only as have been made to any corporation or company of any art or mystery or for the maintenance

<sup>1</sup> *Patent Rolls*, 40 Eliz., pt. ix. See *ante*, p. lxiv. (10).

<sup>2</sup> *Acts of the Privy Council* 1600-1 p. 55: see also p. 333.

<sup>3</sup> *Ibid.*, p. 346. See p. 56.

<sup>4</sup> *Ibid.*, p. 347.

<sup>5</sup> *Acts of the Privy Council* 1601-4 p. 237

<sup>6</sup> *Ibid.*, p. 501

<sup>7</sup> The words of Fuller, Allen's counsel (recalling those of Bacon in the Parliament of 1601 (D'Ewes, p. 644), afterwards passed (see Gordon, *Monopolies by Patents*, pp. 194, 219) as the judgment of the Court. He maintained that the sole occasion for a

grant of monopoly was 'where any man by his own charge and industry, or by his own wit or invention doth bring any new trade into the Realm, or any engine tending to the furtherance of a trade that never was used before: and that for the good of the Realm.' In such cases the King 'may grant a monopoly patent for some reasonable time': Noy, p. 182. The various reports of the case by Noy, Moore and Coke are collated and edited by Gordon (*ubi cit.*), pp. 193-232.

<sup>8</sup> *Acts of the Privy Council*, 1601-4, p. 497.

and enlargement of any trade of merchandise.’<sup>1</sup> Interlopers might fret at the corporate powers of groups of merchants trading overseas,<sup>2</sup> but there was little clamour for the abolition of the essentially restrictive constitution of a City Company. Even in the *Case of Monopolies*, Allen’s counsel had admitted that ‘when there be many sellers, although they be all free of one company, as Goldsmiths, Clothiers, Merchants, Drapers, Tailors, Shoemakers, Tanners and such-like, who have settled governments and wardens and governors to keep them in order, they were never accounted a monopoly.’<sup>3</sup> And though the ‘free traders’ might account the East India merchants otherwise, the Bills which attacked monopolies left loopholes through which corporations could pass.

The King’s proclamation applied also to penal dispensations, against which the judges reported in the following year.<sup>4</sup> The King could not ‘commit the sword of his justice or the oil of his mercy to any subject.’<sup>5</sup>

James, in the Book of Bounty published in 1610,<sup>6</sup> gave his name to a popular statement of the law which was afterwards to be used against him. His interferences with commerce, however, were unfortunate. Seeking to foster in England the trade of dyeing, dressing and finishing cloths which at that time the Merchant Adventurers and various patentees were exporting ‘white’ and unfinished, he incorporated in 1615 a body named the *King’s Merchants Adventurers of the New Trade of London*.<sup>7</sup> The old Merchant Venturers had declined to help him, saying that the ‘white’ exported cloths would be spoilt by English dyeing and would not attract the foreign buyer, and further that, in attempting to establish the finishing process in England, both the making and finishing trades would go abroad.<sup>8</sup> The King’s Merchants (whose grant is an interesting adaptation of Merchant Adventurers’ charters<sup>9</sup>)

<sup>1</sup> *S. P. Dom.*, Jac. I., lxxiii., p. 12. Salt-petremen were warned against oppression.

<sup>2</sup> See the denunciations of the Muscovy Company, *ante*, p. xxxii. But the Levant merchants in 1652 said ‘by our unity we are enabled to prevent an inundation of monopolies which would overflow our trade in Turkey’ (*S. P. Dom.* Interreg. xxiv. 24).

<sup>3</sup> *Darcy v. Allen*, Noy, at p. 182.

<sup>4</sup> See their opinion addressed to the Lords, *S. P. Dom.*, Jac., I., x. 6.

<sup>5</sup> *Case of Penal Statutes*, 7 Rep. 36. See, nevertheless, such grants as that of issuing pardons to traders never apprenticed, *post*, p. lxxi. (8).

<sup>6</sup> See the facsimile reprinted by Gordon,

*Monopolies by Patents*, App. I. James forbade petitions in respect of certain matters, but permitted them for ‘projects of new invention, so they be not contrary to the law nor mischievous to the State by raising prices of commodities at home, or hurt of trade, or otherwise inconvenient.’

<sup>7</sup> See patent printed *post*, p. 78.

<sup>8</sup> See, for example, *S. P. Dom.*, Jac. I. xx. 10, lxiii. 70: on the other side see *S. P. Dom.*, Jac. I., vi. 109, xx. 9.

<sup>9</sup> Thus it included the clause disenfranchising a member who married a foreign woman; see *post*, pp. 86–7, and *Hist. MSS. Comm. Rep.*, *Salisbury MSS.* i. p. 289, ii. pp. 295–6.



were to take the English-dyed cloths to the foreign market ; as the old company would not assist, and as it lost its business when exportation of unfinished cloths was prohibited,<sup>1</sup> it was by proclamation forbidden to execute its charter.<sup>2</sup> But although the proclamation declared that the old company's charters 'should be no let or impediment to the new intended company, yet nevertheless neither would the Merchant Adventurers yield to surrender their said charters' nor did the new company feel 'fully satisfied and secured' that the old charters were repealed. So, pending the settling of the trade and the legal revocation of the old grants, power was given to export yearly 30,000 white cloths undressed.<sup>3</sup> The trade was never settled. The new company failed to buy up the cloths finished in England,<sup>4</sup> and came in 1617 to an end,<sup>5</sup> whereupon the old company of Merchant Adventurers was restored. 'Time,' the King confessed, 'discovereth many inabilities which cannot at first be seen.' Under his scheme there would have been 'greater loss in the clothmaking of the kingdom than gain in the dyeing and dressing thereof.'<sup>6</sup>

In the manufacture of alum and of glass the royal prerogative was not inactive. Having given to Lord Sheffield, Challoner and others a licence to make alum for thirty-one years,<sup>7</sup> the king in 1609 took the business into his own hands,<sup>8</sup> with unsatisfactory results.<sup>9</sup> As for glass, there were already (as we have seen<sup>10</sup>) Elizabethan patents. James went further. He continued Bowes' licence in 1606,<sup>11</sup> granted the reversion of it to Sir Percival Hart and Edward Forcett or Fawcett,<sup>12</sup> and an Irish extension of it to Aston,<sup>13</sup> while he issued to Salter<sup>14</sup> a patent for glass 'the making whereof is not prohibited' in these patents already mentioned. Next he gave a patent to Sir William Slingsby,<sup>15</sup> who possessed a process which employed coal instead of wood. Then,

<sup>1</sup> Proclamation, July 23, 1614; *S. P. Dom.*, Jac. I., clxxxvii. 29.

<sup>2</sup> Proclamation, Dec. 2, 1614; *ibid.*, 35.

<sup>3</sup> *Patent Rolls*, 12 Jac. I., pt. x. (14 Nov.).

<sup>4</sup> See complaints, for example, *S. P. Dom.*, Jac. I., lxxxviii. 45.

<sup>5</sup> *Ibid.*, xciv. 36.

<sup>6</sup> *S. P. Dom.*, Jac. I., clxxxvii. 50A. See indications in 1615 of the revival of the old company, *S. P. Dom.*, Jac. I., lxxx. 108, lxxxvi. 48.

<sup>7</sup> *Patent Rolls*, 4 Jac. I., pt. xxii. For a previous grant see *post*, p. 17, and *S. P. Dom.* (Add.) Eliz., xiii. 49 (1), where Mountjoy put forward his proposals as not

only an advantage to England but 'also great annoyance to the Pope.'

<sup>8</sup> See proclamation, 19 June, 1609; *S. P. Dom.*, Jac. I., lxxiii., p. 209; other instances of royal enterprise are gold and silver thread (*post*, p. lxx.) and playing-cards (*S. P. Dom.*, Car. I., cccclxxvii. 64).

<sup>9</sup> See Price, *English Patents of Monopoly*, c. vii. See recitals in Indenture between the King and Bourchier & Co. *Patent Rolls*, 11 Jac. I., pt. xxx.

<sup>10</sup> See *ante*, p. lxii.

<sup>11</sup> *Patent Rolls*, 4 Jac. I., pt. xv.

<sup>12</sup> *Patent Rolls*, 5 Jac. I., pt. xxiv.

<sup>13</sup> *Patent Rolls*, 5 Jac. I., pt. vii.

<sup>14</sup> *Patent Rolls*, 6 Jac. I., pt. i.

<sup>15</sup> *Patent Rolls*, 8 Jac. I., pt. xii.

while Slingsby and Carré protested,<sup>1</sup> he gave a monopoly to a process projected by Sir Edward Zouch, Thelvall or Thelwall, Percivall and the royal glazier Mefflin, which used no wood and had already been worked in several furnaces.<sup>2</sup> At Coke's suggestion<sup>3</sup> the conflicting interests of the various patentees were reconciled by a fresh grant to Zouch and his partners which reserved a rent of £1000, and declared the grants to Bowes, Hart and Forcett, and Salter 'hurtful and prejudicial' and therefore void.<sup>4</sup> In the next year a further patent brought the Earl of Montgomery, Sir Thomas Howard and Sir Robert Mansell into the enterprise.<sup>5</sup> The new patentees had the exclusive right of making glass with coal or any fuel except wood. The glass trade was neatly cornered when the King went on to prohibit manufacture with wood, and to forbid the importation of foreign glass.<sup>6</sup>

It is perhaps a little strange that James did not incorporate the glassworkers. In the manufacture of starch and of gold and silver thread, as in other instances,<sup>7</sup> he revived the old principle of corporate organisation of a trade, a principle which had new value if corporations could escape the agitation against monopolies.

Starch was among the obnoxious grants revoked by Elizabeth in 1601.<sup>8</sup> Her successor attributed 'great mischief' to that revocation. Unchecked starchmaking consumed wheat fit for human food, and caused nuisance by noisome and offensive savours.<sup>9</sup> Having first prohibited all starchmaking throughout the country,<sup>10</sup> he in 1607 allowed a restricted and supervised manufacture, directing starch to be made of bran, not of wheat.<sup>11</sup> A few months later the trade was placed under the control of the *Master, Wardens, Assistants and Commonalty of the Art or Mystery of Starchmakers of the City of London*.<sup>12</sup> The company, which

<sup>1</sup> *S. P. Dom.*, Jac. I., lxi. 113, 114.

<sup>2</sup> *Patent Rolls*, 9 Jac. I., pt. xxix.

<sup>3</sup> *S. P. Dom.*, Jac. I., lxxv. 9.

<sup>4</sup> *Patent Rolls*, 11 Jac. I., pt. xvi. Mefflin had died: Kellaway took his place.

<sup>5</sup> *Patent Rolls*, 12 Jac. I., pt. iii.

<sup>6</sup> *S. P. Dom.*, Jac. I., clxxxvii. 42. The patents emphasise the undue consumption of timber (formerly an export from England, now an import) and the danger to the Navy (cf. *post*, p. 48). The further glass patents include one to Mansell (*Patent Rolls*, 21 Jac. I., pt. i.), which was excepted from the Statute of Monopolies and was extended in 1634 (*Patent Rolls*, 10 Car. I., pt. iv.). The grant and extension are printed by Mr. Price, *English Patents of Monopoly*, p. 214 (see *ibid.*, pp. 72-81).

<sup>7</sup> See, for example, the patents incorporating the Pinners (*Patent Rolls*, 3 Jac. I., pt. v., 16 Jac. I., pt. xvi.) Brick-makers (*P. R.* 12 Jac. I., pt. vii; revoked in 1638, see Rymer xx., p. 345), Tobacco-pipe makers (*P. R.* 17 Jac. I., pt. viii.), Gold-beaters (*ibid.*), etc.

<sup>8</sup> See *ante*, pp. lxiv. (6), lxv.

<sup>9</sup> See *post*, pp. 117-8.

<sup>10</sup> *S. P. Dom.* (Add.) Jac. I., xxxviii. 105.

<sup>11</sup> *S. P. Dom.*, Jac. I., lxxii., p. 151. See *Remembrancia*, p. 383.

<sup>12</sup> *Patent Rolls*, 5 Jac. I., pt. xx. The London Grocers, who were beginning to make starch, opposed the incorporation, prophesying increased prices (*Remembrancia*, p. 94).



undertook to pay five shillings per hundred weight of starch in compensation for loss of customs, was at first supported by the usual proclamation. In 1610, however, it was checked, starchmaking in England (or the purchase of English starch) being absolutely forbidden.<sup>1</sup> Twelve years later the company was re-erected by a patent which curiously ignores the first incorporation though largely repeating its gildlike constitution.<sup>2</sup> In a proclamation which followed,<sup>3</sup> starchmaking by non-members of the company was threatened with the Star Chamber. 'The orders formerly made and set down' were continued in 1632, when a Commission was appointed for the punishment of offenders.<sup>4</sup> After the Restoration the Starchmakers' Company was re-incorporated.<sup>5</sup> Manufacture was to be conducted under one joint stock and in places authorised. All former members of the old company, and all seven-year apprentices to the starch trade, were to be admitted without fine.

The gold and silver thread industry began<sup>6</sup> with a patent given in 1611 to Dike, Fowle, Phipps and Dade, who undertook to establish the art of 'making, beating, cutting, threading and spinning of gold and silver thread' as practised in Venice, Milan, Naples, Florence, Bologna, Italy and France.<sup>7</sup> Five years later a further grant was obtained for twenty-one years.<sup>8</sup> The goldsmiths, whose trade was thereby upset, said the patentees were too unskilful to work the grant without a goldsmith's aid;<sup>9</sup> but the work went on, and infringers were punished.<sup>10</sup> In 1618 a proclamation announced that the King saw fit to take the business into his own hands, and forbade unlicensed manufacture or importation of gold and silver thread.<sup>11</sup> His speech to Parliament in

<sup>1</sup> Proclamations, 1610, Jan. 10 and Aug. 22. *S. P. Dom.*, Jac. I., lxxiii., pp. 220, 232.

<sup>2</sup> See the patent printed *post*, p. 117. The chief differences are that the old patent provides for 'common beams' for weighing starch, and a 'mark, sign, seal or stamp' (representing a balance within a ring with the legend, 'A just weight pleaseth God. Prov. ii.') for marking starch viewed and weighed. The new patent provides for 10s. duty per cwt., and for revocation upon complaint after ten years' working.

<sup>3</sup> *S. P. Dom.*, Jac. I., clxxxvii. 101. See a proclamation in 1629, Rymer, xix. 92.

<sup>4</sup> *Patent Rolls*, 7 Car. I., pt. x. dors. (Rymer, xix. 338).

<sup>5</sup> *Patent Rolls*, 14 Car. II., pt. xiv. A

final clause provides that, if £5 be paid to the Exchequer 'to the intent to make void these presents,' the grant shall be void.

<sup>6</sup> See also a proclamation of 1604 (*S. P. Dom.*, Jac. I., clxxxvii. 3A) complaining of imported thread, and Gardiner, *History*, iv., p. 11; *Remembrancia*, p. 219, note.

<sup>7</sup> *Patent Rolls*, 9 Jac. I., pt. vii.

<sup>8</sup> *Patent Rolls*, 13 Jac. I., pt. xvi.

<sup>9</sup> *Remembrancia*, pp. 218-9.

<sup>10</sup> See *ibid.*, p. 220; and the Commission later appointed, *Patent Rolls*, 16 Jac. I., pt. xii.

<sup>11</sup> *S. P. Dom.*, Jac. I., clxxxvii. 53 (see later proclamation, *ibid.*, 71, penalising unregistered purchases). For the part played by Buckingham and his brothers see Gardiner, *History*, iv., pp. 12-3: see also *Commons Journals*, i., p. 538.

1621 declared his intention to strike the patent dead. It was 'most vilely executed, both for wrongs done to men's persons as also for abuse in the stuff. . . I have already freed the persons that were in prison. I will now also damn the patent.'<sup>1</sup> Two years later he set up a corporation in place of the individual patentees.<sup>2</sup> By 1624, however (the year which saw the Statute of Monopolies finally passed), it was announced that the company, having been found 'unfit to be continued,' had been dissolved; a proclamation forbade the sale of fine gold or silver to any person except the officers of the mints and goldsmiths.<sup>3</sup> This policy was repeated in 1636, the use of coin, plate or bullion in the manufacture of gold and silver thread being thenceforth forbidden to all persons except those licensed by Commissioners.<sup>4</sup>

Thus grievances were multiplied by increasing the use of letters patent and of proclamations, and by developing the Star Chamber to be—as Pym afterwards said—'an instrument of erecting and defending monopolies, to set a face of public good on things pernicious.'<sup>5</sup> Proclamations and patents, wrote Chamberlain in 1620, are become so ordinary that there is no end, every day bringing forth some new project; the few monopolies complained of at the King's accession were multiplied by many scores.<sup>6</sup> The King reluctantly consented to a Parliament, and appointed a Commission to inquire into the grievances.<sup>7</sup> Lists survive in which the monopolies were collected and classified,<sup>8</sup> some

<sup>1</sup> *S. P. Dom.*, Jac. I., cxx. 40. See proclamation against patents, proclamations and commissions for gold and silver thread, March 30, 1621 (*ibid.*, clxxxvii. 90).

<sup>2</sup> See patent printed *post*, p. 122. About a dozen of the names appear also amongst the goldbeaters incorporated four years earlier (*Patent Rolls*, 17 Jac. I., pt. viii.; see procl., *S. P. Dom.*, Jac. I., clxxxvii. 71A). The Goldwiredrawers' patent includes the sole right of gold-beating without mention of the Goldbeaters, to whom the 'gold and silver foliat' patent mentioned as surrendered in the proclamation of 1621 seems to refer.

<sup>3</sup> *Patent Rolls*, 22 Jac. I., pt. i. *dors.* (Rymer, xvii. 605.) See *post*, p. 136 (1).

<sup>4</sup> *Patent Rolls*, 11 Car. I., pt. xxx. *dors.* (Rymer, xix. 718). See Commissioners' appointment, *ibid.*, pt. xix. *dors.* (Rymer, xix. 735).

<sup>5</sup> Rushworth, *Historical Collections*, pt. iii., vol. i., p. 23.

<sup>6</sup> *S. P. Dom.*, Jac. I., cxvi. 13.

<sup>7</sup> *Ibid.*, cxvii. 55.

<sup>8</sup> See *ibid.*, cxxi. 48, 49, 122–5. The grants include *inter alia*:—glass (Mansell's), logwood (see *Sign Manual*, v. 42), light-houses (see *S. P. Dom.*, cxviii. 132), lists and shreds (see *ante*, p. lxiv), salmon and lobsters (Bassano and Vawdrey: *Patent Rolls*, 13 Jac. I., pt. xvi.; sole right (in reward for a supposed invention for carrying fish) to bring fresh unsalted salmon and lobster into London and the district for 21 miles round), power of dispensation to traders who had not yet served as apprentices (see procl. *S. P. Dom.*, Jac. I., clxxxvii. 64 B, in favour of Spens, Primrose and others), office for licensing pedlars (see procl., *ibid.*, 56: *Patent Rolls*, 15 Jac. I. pt. vi.). One corporation, the Tobacco-pipemakers (see *ante*, p. lxix. (7)) is mentioned. The list in *S. P. Dom.*, Jac. I., cxxi. 125, is especially comprehensive, giving some ninety grants with names and dates. See also *ibid.*, Add., xlii., 38.



condemned by the Commons but referred by King to Council, some surrendered, some still under discussion. Three of the worst the King 'struck dead.'<sup>1</sup> He blamed the vile execution of the projects and patents which he now found had been vexing his people while he had thought the country so happy,<sup>2</sup> and he complained (like Elizabeth) of the false suggestions made to him by the grantees. He issued a conciliatory proclamation a few months later,<sup>3</sup> and another in 1623.<sup>4</sup> Meanwhile Parliament had stamped various grants as grievances,<sup>5</sup> and drew nearer to the great statute which was passed in 1624.<sup>6</sup> The Act begins astutely with an echo of the sentiments published by the King in 1610 in the Book of Bounty,—a declaration 'truly consonant and agreeable to the ancient and fundamental laws of this your Realm.' Then it proceeds boldly to abolish '*all monopolies and all commissions, grants, licences, charters and letters patents heretofore made or granted, or hereafter to be made or granted to any person or persons, bodies politic or corporate whatsoever, of or for the sole buying, selling, making, working or using of anything within this realm or the Dominion of Wales,*' except grants already confirmed by statute, and fourteen-year grants afterwards to be issued 'to the first and true inventor' for the sole working of a new manufacture.<sup>7</sup> In spite of this mention of 'bodies politic or corporate,' the Act contained a proviso that nothing therein should extend to the City of London or any other corporate town, '*or unto any corporations, companies, or fellowships of any art, trade, occupation or mystery, or to any Companies or societies of merchants within this realm erected for the maintenance, enlargement or ordering of any trade or merchandise.*'<sup>8</sup> This left a way for Charles to continue the monopolies, so that in 1640 Culpeper could say (after likening them to leeches, nests of wasps, swarms of vermin ubiquitous as the frogs of Egypt) 'they have a vizard to hide the brand made by that good law in the last Parliament of King James; they shelter themselves under the name of a corporation.'<sup>9</sup>

The specific exceptions from the operation of the statute embraced

<sup>1</sup> Gold and silver thread (see *ante*, p. lxxi.) the inn-licensing grant of Giles Mompesson and Buckingham (*Patent Rolls*, 14 Jac. I., pt. xxii.), and that of Dixon and Almond relating to alehouses (*P. R.*, 15 Jac. I., xxiii.: see procl., *S. P. Dom.*, Jac. I., pt. clxxxvii. 62). See procl. (*ibid.*, 90) against all patents, commissioners, and proclamations touching these grants.

<sup>2</sup> *Ibid.*, cxx. 40.

<sup>3</sup> *Ibid.*, clxxxvii. 94 (10 July, 1621).

<sup>4</sup> *Ibid.*, 111 (14 February 1623).

<sup>5</sup> See, for example, *Commons Journals*, i. pp., 540–1, 591, 622, &c.

<sup>6</sup> 21 Jac. I., c. 3. Cf. *post*, pp. 99 (2), 136 (1).

<sup>7</sup> Existing grants of this kind for twenty-one years were also excepted.

<sup>8</sup> These words recall those in the proclamation of 1603 (*ante*, p. lxvi.), and follow the clause of exception which Bacon had dwelt upon in 1601 (*ante*, p. lxv. (5)).

<sup>9</sup> Rushworth, *Historical Collections*, pt. iii. vol. i., pp. 33–4.

printing, saltpetre, gunpowder and ordnance, offices, alum or aluminas, certain licences for tavern-keeping and wine-selling, Mansell's glass patent, Maxwell's grant for transporting calfskins,<sup>1</sup> Baker's for smalt,<sup>2</sup> and Dudley's for melting and casting iron with coal.<sup>3</sup> The immunities and privileges of the Fraternity of the Hostmen of Newcastle-upon-Tyne,<sup>4</sup> and their grant of twelvepence per chaldron of coal (made to Elizabeth in 1600,)<sup>5</sup> were also saved.

## X

The Statute of Monopolies altered, rather than ended, the national grievance.

Salt was first in the list of grants which Elizabeth threw over in 1601.<sup>6</sup> Ten years later there was outcry when Sir George Bruce tried for the renewal of Wilkes' patent.<sup>7</sup> Charles I. had under consideration schemes for an imposition on salt,<sup>8</sup> out of which was developed the idea of combining the East Coast saltmakers in one corporation. The promoters at first reported that not more than two-thirds of the Shields saltmakers were willing to join.<sup>9</sup> In the end, however, Sir Richard Brooke (who had bought sundry pans, erected buildings and spent £14,000) obtained a charter for himself and others as the *Saltmakers at the South and North Shields*.<sup>10</sup> Between Berwick and Southampton no saltworks were to be set up without the leave of the corporation, though

<sup>1</sup> *Patent Rolls*, 13 Jac. I., pt. xix.

<sup>2</sup> See *S. P. Dom.*, Jac. I., lxxii. 83-9, where certificates seek to show that Wilhelmson, and not Baker, was the true inventor.

<sup>3</sup> *Patent Rolls*, 19 Jac. I., pt. xv.

<sup>4</sup> Incorporated (*Patent Rolls*, 42 Eliz., pt. xxi.) with privilege of loading and unloading, charging and discharging, sea coals, stone coals, and pit coals, and stones called grindstones, rubstones and whetstones, according to previous custom. See translation of charter in *Records of the Company of Hostmen of Newcastle on Tyne* (Surtees Society, vol. cv., pp. 10-17): see history in Introduction, *ibid.*, and charter of 1603, *Patent Rolls*, 2 Jac. I., pt. xxiv.) at pp. 26-27. When Charles incorporated Thomas North and others as the *Governor, Wardens, Assistants and Fellows of the Society of Coal Merchants trading to Newcastle, Sunderland, Blith, Nooke and Berwick* (*Patent Rolls*, 14 Car. I., pt. xii.), he directed the members to buy at Newcastle only

from the free hostmen there as theretofore. See Levy, *Monopoly and Competition*, pp. 24-28.

<sup>5</sup> Printed in *Records of the Company of Hostmen* (*ubi supra*) at pp. 17-19.

<sup>6</sup> See *ante*, p. lxxv. Wilkes' grant was said to have sent the price up from 16*d.* to 14*s.* or 15*s.* per bushel, and to have cost the three ports some £3000 a year (D'Ewes, p. 647). For Francis Bertie's white salt grant, see *Patent Rolls*, 8 Eliz., pt. vi.; for Richard Spence's, *P. R.* 24 Eliz., pt. ix.

<sup>7</sup> *S. P. Dom.*, Jac. I., lxiii. 17: *Remembrancia*, p. 216. Bruce said he employed 1000 persons, had supplied the old patentees with salt, would sell better at 16*d.* than they had sold at 20*d.*, and would sell in Lynn, Boston and Hull at 2*d.* under London price.

<sup>8</sup> *S. P. Dom.*, Car. I., ccviii. 5-13.

<sup>9</sup> *Ibid.*, 10. Nicholas Murford was apparently trying to offer better terms, *ibid.*, 13: see ccxix. 3.

<sup>10</sup> See patent printed *post*, pp. 142-8.



an exception was made in favour of Nicholas Murford and Christopher Hamworth, who already held a patent for a salt process.<sup>1</sup> At the same time the corporation undertook for fourteen years to make good and merchantable salt in sufficient quantities for fishing and domestic use, selling at a limited price to the public and paying a fixed charge to the Crown.<sup>2</sup> An arrangement was made as to Scottish salt; the importation of foreign salt the King undertook to restrain so soon as the corporation could supply the home market. He reserved the power, in case a better salt process was discovered, after three years and before ten years to determine the privilege upon six months' notice: in that event the patentees were not to 'require, demand, or sue for any composition or recompense' in respect of sums laid out upon the business.

In the year after the North and South Shields patent the undertaking of Murford and Hamworth was enlarged into the corporation of *Saltmakers of Great Yarmouth*.<sup>3</sup> The latter grant contained a promise by the King to convey to the society or its nominees any waste lands adjoining either the sea or salt waters at a reasonable valuation.<sup>4</sup> The Yarmouth saltmakers, in a petition which asked for the right to acquire and transport Newcastle coals for their work free of impost due to the King or the town of Newcastle, stated that their payments to the Crown were likely in a few years to yield a permanent yearly revenue of forty or fifty thousand pounds.<sup>5</sup> Murford was attacked later when (upon proposals made by Thomas Horth) the Shields saltmakers were for a second time incorporated.<sup>6</sup> On one occasion, however, when summoned at the instance of the latter body for not conforming to its orders, he produced his own patent to the officer, and, pointing to its clause of assistance, charged him in the King's name to assist and defend him from molestation.<sup>7</sup>

Horth and his associates promised the King £9000 yearly.<sup>8</sup> But the corporation was short-lived, for Parliament intervened soon afterwards.<sup>9</sup>

<sup>1</sup> See *post*, pp. 147, 148.

<sup>2</sup> Indenture, *Patent Rolls*, 11 Car. I., pt. xxvi. (Sale price not to exceed £3 per wey for home use, or 50s. for fishing, paying 10s. and 3s. 4d. per wey respectively: to economise fuel, the 'meaner sort of coals, commonly called pan coals,' were to be used as far as possible).

<sup>3</sup> See patent printed *post*, pp. 148-160.

<sup>4</sup> See a royal letter granting certain marshes belonging to the King to Murford (*S. P. Dom.*, Car. I., cccliv. 35). The King did not doubt that local persons interested would be reasonable in their demands, but there was a petition against

the grant, the lands being alleged to be needed for pasture (*ibid.*, cccliv. 80).

<sup>5</sup> *S. P. Dom.*, Car. I., cccxxxviii. 58.

<sup>6</sup> See patent printed *post*, pp. 167-172.

<sup>7</sup> *S. P. Dom.*, Car. I., cccexx. 140.

<sup>8</sup> Indenture, *Patent Rolls*, 14 Car. I., pt. xlv. (the King demised them the existing duties).

<sup>9</sup> *Commons' Journals*, ii., pp. 58-9. The 'late Company' of Shields Saltmakers stated in 1639-40 that they had lost many thousand pounds: they denied that they owed the Crown as much as £13,000 (*S. P. Dom.*, Car. I., ccccliii., p. 146).

Charles applied to the manufacture of soap a similar method of regulation by incorporation and of monopoly by means of proclamations and the Star Chamber. A proposal for a soap monopoly had been made to James in 1623 by Sir John Bourchier in connection with the royal alum works;<sup>1</sup> and a patent for making hard and soft soap without using fire had at this date been issued and confirmed to Roger Jones and Andrew Palmer.<sup>2</sup> These patentees had the sole right (for twenty-one years) of working their soap process, of 'burning and preparing of bean-straw, pea-straw, kelp, fern and other vegetables to be found in our own dominions,' and also of using the assay-glass. Their method had the advantage of economising fuel and of employing native materials. The old soap-boilers, however, called the new soap unmerchantable and unserviceable. Accordingly the King through the Court of Aldermen directed a comparative trial of the new and old product. The result was a report that the new soap would, 'if it be used by skilful washers acquainted therewith,' with much labour wash coarse linen, but that it was not so fit for fine linen, fretting it, wearing it and consuming it, and being moreover disliked by laundresses.<sup>3</sup> In 1631 Jones and others were confirmed in their grant,<sup>4</sup> and soon afterwards the patentees were incorporated as the *Society of Soapmakers in the City of Westminster in the County of Middlesex*.<sup>5</sup> They undertook to produce yearly five thousand tons of good white and sweet soft soap, equal to that in a sealed firkin, and within one year to erect such works and provide such materials as would furnish the full quantity, promising to pay four pounds on every ton.<sup>6</sup>

Under its charter the Westminster Society had the right of search. A proclamation directed soapmakers to use only olive and rape oil, and forbade the importation of unserviceable soap or the sale of soap or ashes unmarked by the searchers of the Society.<sup>7</sup> Proceedings had soon to be taken against old soap-boilers who, in disobedience to

<sup>1</sup> *S. P. Dom.*, Jac. I., cl. 94; see Price, *English Patents of Monopoly*, c. 7, and *ante*, p. lxviii. For proposals for farming soap in 1572, see *S. P. Dom.*, Eliz., lxxxv. 68: for interference under Elizabeth with the oil used by soapmakers see *ibid.*, cxxvi. 45, 63, and cxliv. 74 (grievance of patent exercised by Coxson and Mellowe in 1580).

<sup>2</sup> *Patent Rolls*, 20 Jac. I., pt. xii, and 21 Jac. I., pt. v. (the latter is printed by Price, *English Patents of Monopoly*, at p. 207: see generally, c. xi., *ibid.*).

<sup>3</sup> See *Remembrancia* pp. 224-5.

<sup>4</sup> *Patent Rolls*, 7 Car. I., pt. x. (printed by Rymer, xix. 323). The 21 years' term was altered to 14 to meet the statute.

<sup>5</sup> See patent (Latin) printed *post*, p. 136. Other contemporary corporations of Westminster include the Brickmakers, Tobacco-pipemakers and Madderplanters.

<sup>6</sup> Indenture, *Patent Rolls*, 8 Car. I., pt. v. Seegrant (*P. R.*, 8 Car. I., pt. ii.) appointing Francis Coningsby to the office of keeping the patterns and making the assays of soap.

<sup>7</sup> Rymer, xix. 381.



the proclamation, used fish-oil, and refused to have their soap tried or marked by the assay-master, and who also, albeit no body corporate, presumed to assemble in several taverns in London and to confer about the sale of their soap and the buying of fish-oil from the Greenland Company.<sup>1</sup> For these offences Overman and others were fined heavily, committed to the Fleet, and forbidden to make soap at any time thereafter.<sup>2</sup> The Star Chamber further ordered that no one who was not formerly a soap-boiler, or duly qualified by profession or apprenticeship, should make any soap until the Court were satisfied of the justness of his pretences. At the same time all soap-makers were placed under the rule and governance of the Westminster Company.<sup>3</sup> These orders were repeated in a subsequent proclamation which states that, after the punishment of the delinquents, others took on the manufacture with their vessels and stock. A further trial of the soap in 1633 had been crowned by a favourable certificate from the Lord Mayor and testimonials from eighty persons including four countesses, five viscountesses and others, 'besides common laundresses,' whence it appeared that the new soap was 'good, sweet and serviceable for our people.' The proclamation forbade any resistance to search, and fixed the maximum charge at threepence per pound.<sup>4</sup>

In 1634 another proclamation complained that 'many factious and refractory persons' studied to hinder the royal intention with soap of Castile, Venice and Smyrna, and with English hard soap from the west country and soap of fish-oil. These persons were maliciously 'bringing the new white soap into dislike, purposely abusing and falsifying it and maliciously presuming to retail it at inordinate prices.' Excessive prices were to be regulated by Justices of the Peace, and offenders were to be punished. One other clause was of great importance. In consequence of complaints from 'silk-dyers, wool-combers, weavers, saye-thickers,<sup>5</sup> fullers and the like,' the company was authorised to make such quantities of any other sort of soap as might be required for those trades, provided it were not sold above threepence a pound.<sup>6</sup> Soon afterwards the company was even further strengthened. Only its members and licensees were permitted to make soap; and no other soapmakers' soap was to be kept by grocers, salters, chandlers

<sup>1</sup> See *ante*, p. xxxiv.

<sup>2</sup> See Rushworth, *Historical Collections*, pp. 54-5.

<sup>3</sup> *Ibid.*, p. 60. The company was to take care to have not fewer than thirty members, and was recommended to employ the servants and workmen of disabled soapers. A limit of one mile round

London, Westminster and Bristol was fixed for soaphouses: non-members were to notify to the company any new building.

<sup>4</sup> *Patent Rolls*, 9 Car. I., pt. vi. *dors*. See Rymer, xix. 504.

<sup>5</sup> Fullers of saye, a kind of serge.

<sup>6</sup> *Patent Rolls*, 10 Car. I., pt. xvi. *dors*.; Rymer, xix., p. 566.

or other retailers.<sup>1</sup> By such steps as these the exclusive right of Jones and Palmer to use a single process was erected into an absolute monopoly of all soap manufacture.

The company erected two soap-houses in Lambeth and one at St. Catherine's in the suburbs, as well as various potash-works in different counties. In 1636 they undertook to pay the King as much as six pounds a ton for seven years on their promised output of 5000 tons,<sup>2</sup> and paid £10,000 in advance. In return they were allowed to sell at higher prices—'soft soap of whale and other merchantable oil and the best tallow' at 3½*d.*, and 'that to be made with oil olive and rape oil, being of the best crown soap,' at 4½*d.* the pound.<sup>3</sup> The persecution conducted by the company,<sup>4</sup> the unpopularity and failure of its soap (maligned as 'popish'<sup>5</sup>), the hostility of Laud, and the persistence of the independent soapmakers united to bring the monopoly to an end. In 1637 the Westminster Company were bought out by a group of independents which included that Overman whom the Star Chamber had punished.<sup>6</sup> The Westminster charter was surrendered,<sup>7</sup> and the new group was incorporated by the name of the *Society of the Soapmakers of London*, with full powers of search and regulation and with a monopoly of the making and sale of soap.<sup>8</sup> Thus the poacher turned gamekeeper.

The London soapmakers paid a pretty penny for their privilege. They covenanted to erect six soap-houses and to pay the King no less than eight pounds per ton; and they paid £10,000 in advance. To the old company they paid £40,000, and to Weston and Gage £3000,<sup>9</sup> while

<sup>1</sup> *Patent Rolls*, 10 Car. I., pt. xvi. *dors.*; Rymer, xix., p. 592.

<sup>2</sup> The soap was to be made only in their own establishments in or near London, Westminster, Lambeth and St. Catherine's 'and in one joint stock and no otherwise.' If more than 5000 tons were needed, it was to be supplied under the same conditions.

<sup>3</sup> Indenture, *Patent Rolls*, 12 Car. I., pt. xix. (they were to make good, strong durable soap and use good potash, oil, tallow, lime, &c., and also to set up and pay an assay-master and a surveyor).

<sup>4</sup> See, for example, the Commission to Hales and How for compounding with offenders and taking half the forfeitures (*S. P. Dom.*, Car. I., ccxxxvii. 64), and the Council's order to all Mayors, Justices, &c., to apprehend offenders (*ibid.*, ccxxxviii. 27).

<sup>5</sup> See Price, *English Patents of Monopoly*, p. 122.

<sup>6</sup> See *ante*, p. lxxvi. For fresh proposals at this time, see Marshall's (*S. P. Dom.*, Car. I., ccxxxi. p. 62), and the west-country hard soap makers' petition for incorporation (Devon, Exeter, Somerset and Cornwall, *ibid.*, ccclxii. 43).

<sup>7</sup> There was a full pardon and release in respect of all defaults, breaches of covenant, matters done contrary to the statute 19 Henry VII., c. 7, &c. (See Indenture, *Patent Rolls*, 13 Car. I., pt. xxxix.). Horth tried to enforce against the new company his oil contract with the old (*S. P. Dom.*, Car. I., cccliv. 102 (2); ccclxviii. 25).

<sup>8</sup> See patent printed *post*, p. 160. See petitions from west-country soapers. (*S. P. Dom.*, Car. I., ccclv. 178 (Bridgewater), ccclxiii. 17 (Bristol, etc.).)

<sup>9</sup> Indenture, *Patent Rolls*, 13 Car. I., pt. xxxix.



they took over also the Westminster Company's stock and materials to the value of over £20,000.<sup>1</sup> Charles issued a proclamation which explained the position and restricted soapmaking to the members or licensees of the London Company,<sup>2</sup> which in 1640 was authorised to sell at the cheapest rates which it could afford.<sup>3</sup>

Untouched by the proclamation of 1639,<sup>4</sup> wherein the King conceded the revocation of a number of grants, offices and commissions,<sup>5</sup> the London Soapmakers survived to obtain a renewal of their privileges from Charles II.<sup>6</sup> They succeeded in 1656 in a case which involved the validity of their charter. 'Patents,' it was said, 'which tend to the engrossing of trade, merchandise and manufacture, though of never so small value, into one or a few hands only, have always been held unreasonable and unwarrantable.' But 'here is an incorporation consisting of many persons using this trade, and there is liberty given to all others to be admitted'; there was consequently, in the literal sense, no monopoly.<sup>7</sup>

The salt and soap companies could claim to be classified among the 'corporations, companies or fellowships of any art, trade, occupation or mystery' which were excepted from the statute of 1624. Where Elizabeth and James offended by giving a monopoly to a single subject, Charles had the approval of the statute in incorporating a favoured body of manufacturers upon whose manufactured products a substantial royalty could be collected. For example, the King proposed to incorporate the maltsters, who were to pay him fourpence or sixpence on every quarter of malt.<sup>8</sup> Another instance occurred in the madder trade. Madder, mentioned in Elizabethan times as one of the chief

<sup>1</sup> *Short and true Relation concerning the Soap Business* (1641), p. 25. The Westminster Company had paid the King £8000 (*S. P. Dom.*, Car. I., cccxii. 25).

<sup>2</sup> *Patent Rolls*, 13 Car. I., pt. xv. dors.

<sup>3</sup> *S. P. Dom.*, Car. I., cccxxi. 1.

<sup>4</sup> Printed by Rushworth, *Historical Collections*, pp. 915-17; see the previous resolution of the Committee of the Council for War (*S. P. Dom.*, Car. I., cccci. 59) advising that certain projects be 'taken off,' since they yielded no considerable profit to the Crown and were grievances to the subject.

<sup>5</sup> These included the incorporations of hatbandmakers, gutstringmakers, spectaclemakers, combmakers, tobacco-pipe-makers, butchers, and horners, and also all patents for new inventions not put

into execution within three years of their date.

<sup>6</sup> *Patent Rolls*, 13 Car. II., pt. x. The new charter is of gildlike type, permitting regulation of manufacture in London, Westminster, Southwark, and four miles round, with power to search, view and try soap, and to assess members. (See *S. P. Dom.*, Car. II., xxxi. 35, stipulating for surrender of the old charter, which had proved prejudicial and burdensome.) The Westminster Company, its proclamations, warrants and agreements had been voted illegal by the Commons (see *Commons' Journals*, ii. 299, v. 382-3, etc.).

<sup>7</sup> *Hayes v. Harding*, Hardres, at p. 55. Cf. *ante*, p. lxvii.

<sup>8</sup> See *S. P. Dom.*, Car. I., cclxxxiii. 13. Cf. also the brewers, Rymer, xx., 57.

commodities needed by England from the Low Countries,<sup>1</sup> had special dyeing properties. James I. gave William Shipman (described as 'the King's servant') the sole right of planting madder for twenty-one years upon payment of the sums then paid on imported madder.<sup>2</sup> In 1631 the importation of madder was placed under a royal officer, George Bedford, who was to inspect and seal.<sup>3</sup> Later there was an offer from a Dutchman to pay all the usual customs and ten pounds per ton for the sole right of importing madder.<sup>4</sup> Then, in 1636, William Shipman and his assigns asked for a patent to prohibit others from importation. They covenanted to plant, and desired four years to bring the work to perfection. They offered £10 per ton of the better sort for all they imported, and £8 for the meaner sort.<sup>5</sup> It was eventually agreed that they should have a corporation, the warrant as to importation being left over for four years.<sup>6</sup> A patent was accordingly issued to them as the *Society of Planters of Madder of the City of Westminster*, while they covenanted to 'begin, prosecute and proceed in the preparation of madder' for supplying the needs of the country, and to pay a royalty on every ton.<sup>8</sup>

If these schemes for fostering native industries were to reward their promoters and to secure uniformity of government, it was inevitable that the activities of all workers who were outside the corporation should be restrained. The disappearance of the more obnoxious elements of exclusiveness is noticeable in the grant to the Saltpetre

<sup>1</sup> See *S. P. Dom.*, Eliz. (Add.) xx. 63 (the price is stated to have doubled). See a madder grant from Walsingham in 1586 (*ibid.*, xxix. 93), and what is perhaps the earliest Irish monopoly, a grant to Peter Backe of Brabant for collecting madder in Ireland, *Patent Rolls*, 10 Eliz., pt. v.

<sup>2</sup> *Patent Rolls*, 22 Jac. I., pt. xv. Attorney-General Heath expected the business within two years to yield a ready revenue of £5000 and save the kingdom £30,000 in expense of foreign madder (*S. P. Dom.*, Car. I., xlv. 1).

<sup>3</sup> *Patent Rolls*, 3 Car. I., pt. xxi. See proclamation, Rymer, xix. 297. Bedford was suspended on the ground that his office merely hampered trade, but was reinstated, the Attorney-General reporting his office to be useful (*S. P. Dom.*, Car. I., ccxxii. 27; as to further objections see *ibid.*, ccxxix. 33, 34).

<sup>4</sup> *Ibid.*, ccxv. 141.

<sup>5</sup> Three kinds were noted, 'gamele

madder, mull madder, and the first madder': see Indenture, below, note (8).

<sup>6</sup> *S. P. Dom.*, Car. I., ccxxi. 19.

<sup>7</sup> *Patent Rolls*, 12 Car. I., pt. xxvi. Sir Cornelius Vermuyden, having bought the King's interest in Malverne Chase for £5000 with a covenant to plant madder there or elsewhere, sold to Sir Robert Heath. Heath, wishing to re-sell, found that the covenant discouraged purchasers. Vermuyden would have discharged it but for Shipman's patent (*S. P. Dom.*, Car. I., ccxv. 141; ccxxiii. 54).

<sup>8</sup> Indenture, *Patent Rolls*, 12 Car. I., pt. xxvi. The royalty was £10 per ton 'of the better sort called crop and *unberoofde*,' £7 for 'the second sort called *gemeene* and fat madder,' £4 for mull madder; these sorts were to be sold at not more than £4, 56s. and 32s. respectively per cwt. A surveyor was to be appointed; the King would not demand tithe, and would restrain import of foreign madder if the Society could supply home needs.



Company more than fifty years later. We have seen Elizabeth supporting her saltpetre patents as necessary for the defence of the Realm, and James, while refusing to abolish them, warning the saltpetremen against oppressiveness.<sup>1</sup> As saltpetre was obtained by such methods as digging up the floors of pigeon-houses and stables,<sup>2</sup> rights of property were apt to be infringed.<sup>3</sup> Charles ordered the preservation of materials in view of the fact that England had been providing only one-third of the saltpetre she consumed.<sup>4</sup> He gave a patent to Sir John Brooke and Thomas Russell in 1627 for a new process, supported by a proclamation.<sup>5</sup> Subsequently he forbade paving or bricking of dove-houses or stables, ordering that floors should be of good mellow earth, and that saltpetremen should not be hindered.<sup>6</sup> Under the Protectorate Colonel Thomas Ogle,<sup>7</sup> and under Charles II. O'Neale,<sup>8</sup> undertook saltpetre making. The East India Company began also to be a source of supply.<sup>9</sup> In 1690 certain petitioners represented that by a newly discovered process they could produce saltpetre cheaper than that company, 'they having knowledge of several parcels of earth proper for that purpose.' They offered to furnish the King (after six months) with a sufficient supply for thirty-one years.<sup>10</sup> Having got a patent,<sup>11</sup> they sold it to Ralph Bucknall, Richard Goodall and others; the purchasers divided the business into twelve hundred shares, asked for incorporation,<sup>12</sup> and disposed of some of the shares without making any saltpetre. Then William Tyndall and Thomas Cox brought forward a suggestion

<sup>1</sup> See *ante*, pp. lxxv., lxxvii. (1), for grant to Cockeram and Barnes, p. lvi. Geo. and John Evelyn and Ric. Hills had a grant in 1589 (*Patent Rolls*, 31 Eliz., pt. viii.).

<sup>2</sup> A recipe (of 1561) for making saltpetre grow in cellars, barns or quarries is given in *S. P. Dom.*, Eliz., xvi. 29.

<sup>3</sup> See *ante*, p. lix. (6), and complaint of Evelyn's agents, alleged to have made £40,000 in four years by monopoly, bribery, deceit of the King and abuse of the subject (*S. P. Dom.* (Add.) Car. I., dxxix. 88): compare complaints from Norfolk of extortions, bribery, breaking of houses and barns, and compulsory carriage (1635), *ibid.*, dxxxv. 108.

<sup>4</sup> See Rymer, xviii. 813.

<sup>5</sup> *Patent Rolls*, 2 Car. I., pt. xvii. and Rymer, xviii., 813.

<sup>6</sup> *Patent Rolls*, 3 Car. I., pt. xvi. dors.; Rymer, xviii. 915. Saltpetremen were to have carriage provided at 4*d.* per mile, and to have notice of any buildings pulled

down. See further proclamation (Rymer, xix. 601) repeating earlier directions and forbidding the stirring of sacred ground.

<sup>7</sup> See *S. P. Dom.*, Inter. cxxv. 36 (petition); 36 (1) (proposals); cxxvi. 100 (grant advised). His process employed salt water. Undertaking to deliver 1500 cwt. yearly of 'double refined petre' at 40*s.* per cwt., he was allowed to sell overplus in England, Scotland or Ireland, provided he did not act against the government.

<sup>8</sup> *S. P. Dom.*, Car. II., xxi. 150.

<sup>9</sup> See *ante*, p. liv.

<sup>10</sup> *Petition Entry Books*, 235, p. 109. (Petition of Robert Price, Barry, Nutt and others.)

<sup>11</sup> *Patent Rolls*, 2 W & M., pt. vi.

<sup>12</sup> Their petition, according to that of Tyndall, Cox and Sherman (*Petition Entry Books*, 235, p. 289), was made in the name of Richard Owen, Thomas Martin and others (see *ibid.*, p. 241).

of new methods and a promise of a thousand pounds a year towards 'the Hospital for maimed, aged and decayed seamen and their widows and children,' and succeeded in obtaining a grant of incorporation.<sup>1</sup> The grant contains safeguards for private property; there are no words of prohibition, of search and seizure, or national regulation of saltpetre-making; and the monopolistic corporations of the first two Stuarts seem far away.

Leaving this forerunner of a modern industrial company, we have now to go back and deal with some of the patents for plantation.

## XI

Sir Humfrey Gilbert projected colonisation in places less remote than Newfoundland. He and others had plans for planting Ulster and other parts of Ireland, Protestant settlers being brought even from Flanders.<sup>2</sup> Half-way through the sixteenth century there was talk of an Ulster Presidency, but little was done till James I. revived the idea.<sup>3</sup> The opportune flight of the Earls of Tyrone and Tyrconnell favoured the bringing in of English colonists, 'to a great increase of His Majesty's revenues, and to settle the countries perpetually in the Crown, and besides to recompense many well-deserving servitors in the distribution without charge to His Majesty.'<sup>4</sup> One petitioner urged that, if towns were planted in convenient places, they would keep the country in awe; if he were granted a 'good scope of Tyrone's land near Coleraine,' he would plant thereon a 'company of honest English to serve His Majesty on all occasions.'<sup>5</sup> Salisbury, agreeing that it was 'of great necessity that those countries be made the King's by this accident,' advised a 'mixture in the plantation,' the natives to remain as tenants of a part, 'the rest to be divided among those who would inhabit.'<sup>6</sup> Sir Oliver St. John, who considered that no land should be given away to English or Irish, but that it should be 'let by worthy and careful commissioners at high and dear rates,' suggested the planting of garrisons and of corporations 'for the more civil government of those parts.'<sup>7</sup> In 1607 Chichester put forward a reasoned scheme of plantation, alleging that the only alternative was the

<sup>1</sup> See patent printed *post*, p. 234. See Lechmere's petition for incorporation (*Petition Entry Books*, 235, p. 274.)

<sup>2</sup> *S. P. Irish*, xxi. 48. See *ibid.*, xxviii. 2, 3, 4, 5, 9; xxx. 10 (Gilbert's notes as to garrisons) and 32 (Sir Thomas Gerrard's plantation proposal). For early Ulster plantation projects see *S. P. Irish*, 1608–

1610, pp. lxxi.–lxxiii.

<sup>3</sup> *Ibid.*, pp. xiv.–xix.

<sup>4</sup> Fenton to Salisbury, *S. P. Irish*, 1606–8, 351.

<sup>5</sup> Sir Thomas Phillips to Salisbury, *ibid.*, 366.

<sup>6</sup> *Ibid.*, 373.

<sup>7</sup> *Ibid.*, 402.



expulsion of all the inhabitants of Tyrone, Tyrconnell and Fermanagh.<sup>1</sup> The Lords of the Council asked for further particulars,<sup>2</sup> and inquisitions were taken and the land mapped out in baronies.<sup>3</sup> A glowing account of Ireland, its resources for cattle-breeding, hemp and flax cultivation, its sea-fishing, its salmon and its pearls, was distributed by the Council to the City Companies through the Lord Mayor of London.<sup>4</sup> Articles of agreement between the Council and the City were drawn up.<sup>5</sup> The newly-founded order of baronetcy was to reward adventurers who would undertake to maintain thirty foot soldiers in Ireland at eight-pence a day apiece for three years.<sup>6</sup> Eventually charters were issued for London-Derry<sup>7</sup> and for the *Society of the Governor and Assistants of London of the New Plantation in the Realm of Ireland*.<sup>8</sup> The liberties of Derry and Coleraine were framed after consideration of the charters of London, the Cinque Ports, Newcastle-on-Tyne, and Dublin;<sup>9</sup> a mayor, officers and twenty-four chief burgesses were nominated. The Ulster Society was incorporated *pro meliori ordinatione, directione, et gubernatione omnium rerum pro et concernentium civitatem et cives de London Derry predictos, et predictum comitatum de London Derry, et plantationem in eadem civitate et comitatu de London Derry fiendam*.<sup>10</sup> Among the members of the Society were many London livery companies which had been assessed in sums amounting to £60,000.<sup>11</sup> Among the principal twelve of such companies the land (except the towns of Derry and Coleraine, which were preserved entire) was divided in twelve portions by lot, after a Hebrew precedent employed, as Chichester said, 'with wonderful success by the wisest lawgiver that ever was.'<sup>12</sup>

Despite the initial expenses, the financial position seems steadily

<sup>1</sup> *Ibid.*, 358.

<sup>2</sup> *Ibid.*, 380.

<sup>3</sup> *S. P. Irish*, 1608-1610, 665; cf. 777.

<sup>4</sup> Herbert, *History of the Twelve Great Livery Companies of London*, i., pp. 221-2, citing from *A Concise View of the Origin, Constitution and Proceedings of the Honourable Society of the Governor and Assistants of London of the New Plantation in Ulster* (1882), pp. 17-21.

<sup>5</sup> *S. P. Irish*, 1608-1610, 244. Lord Audley asked for 100,000 acres in Tyrone (*ibid.*, 441).

<sup>6</sup> *Patent Rolls*, 9 Jac. I., pt. xlv. Commissioners were to be satisfied as to the 'family, living and reputation' of the candidates. Not more than 200 baronets were to be created.

<sup>7</sup> *Patent Rolls*, 11 Jac. I., pt. x.

<sup>8</sup> *Patent Rolls*, 13 Jac. I., pt. xiii. Translations of the grants to Coleraine and

the Society are printed by Reed, *Historical Narrative of the Irish Society*, App., at pp. 9, 139.

<sup>9</sup> See the articles of agreement, *supra*.

<sup>10</sup> *Cum nihil sit magis regium quam veram religionem Christi apud homines hucusque superstitione depravatos et pene perditos stabilire, regiones et terras incultas ac pene desertas arte et industria colere et ornare, ac easdem non modo probis civibus et inhabitantibus sed etiam bonis statutis et ordinationibus instaurare*. Similar recitals appear in the contemporary grants for settling Guiana, see *post*, pp. xci.-xcii.

<sup>11</sup> Herbert, i., p. 223.

<sup>12</sup> *S. P. Irish*, 1608-1610, 292. When the Bermudas Company divided its Promised Land, the division was made by 'tribes' (see Somers Islands map reproduced as frontispiece to Dr. Scott's vol. ii.).

to have improved.<sup>1</sup> Charles I. revoked the charter in 1634, alleging that the Society had not fulfilled its covenants. Both the Ulster Society and the City of London were attacked in the Star Chamber. In vain the Society said it was not a party to the articles agreed between the City and the Crown, while, as for the land, it had passed to the Livery Companies. In vain the City said it had nought to do with the plantation, except to help in raising subscriptions. The accusations included the acquisition of 70,000 acres of good land more than the grant intended, the failure to replace Irish with English settlers, the failure to assure glebe to incumbents, the toleration of a 'great number of beneficed popish priests,' the improper use of timber, and the neglect in building houses and repairing fortifications—omissions which the King alleged cost him £30,000 in maintaining garrisons. Both corporations were adjudged 'fit defendants'; they were fined £70,000, and the patent 'so unduly and surreptitiously obtained' was ordered to be surrendered.<sup>2</sup> Charles II., however, confirmed the grant in 1662,<sup>3</sup> and the Irish Society remains to attest the public spirit of London citizens.

In 1609, when they were asked to subscribe to the Irish plantation, the City companies had, but a few weeks earlier, been solicited to assist in the colonisation of Virginia. While Irish settlements were being developed by political events and military needs, American plantation had been developed by the spirit of adventure, the desire for religious independence, and the search for new trades and markets. The charters issued to the companies which undertook this work<sup>4</sup> repeat many features of the grants to Gilbert and Raleigh. Among common clauses—many of which may be seen in the Newfoundland grant set out on a later page<sup>5</sup>—are the power to 'encounter, expulse and repel' invaders, to 'take and surprise' unlicensed traders, their ships and goods, to dig and mine for gold (with the almost invariable reservation of one-fifth of the precious metals obtained),<sup>6</sup> to lead forth and transport colonists, weapons and stores,<sup>7</sup> and to 'correct, punish, pardon and

<sup>1</sup> For details, see *A Concise View*, etc., Dr. Scott, ii., pp. 339–343, and *Cambridge Modern History*, iii., pp. 614–6.

<sup>2</sup> See papers in *Petty Bag*, *Scire facias* proceedings, 86.

<sup>3</sup> *Patent Rolls*, 14 Car. II., pt. iv.; and see *P. R.*, 15 Car. II., pt. ii. His grant is printed in *A Concise View*, App., p. xiii. The history of the Society and effect of the charters is discussed in *Skinners' Co. v. the Irish Society and others*, 12 Clark and Finelly, 425. Apparently the Commonwealth issued a pardon in 1656; see *Audit Office, Declared Accounts*, *Hanaper*, 1378–147.

<sup>4</sup> Most of these are conveniently printed in *Select Charters illustrative of American History*, 1606–1775 (abridged: ed. Macdonald), and in *Constitutions, Charters, etc., of the United States* (1877: New York).

<sup>5</sup> *Post*, p. 51. Compare also the French charter of Acadia in 1603 (printed in *Constitutions, Charters, etc., of the U. S.*, pp. 773–4).

<sup>6</sup> The first Virginia grant (*post*, p. lxxxiv.) reserves also one-fifteenth of the copper; see *ante*, p. xxix. (1).

<sup>7</sup> Forfeiture is usually ordained for goods nominally exported to the colony but actually carried elsewhere.



govern,' the privilege of English birthright for the colonial-born, the threat of the consequences of robbery and spoliation, and the promise of favourable interpretation. History was to draw attention to the varying degree of local self-government and of freedom from taxation conceded in each case. The effect of the charters was much canvassed in that momentous dispute between Parliament and colonists which led to the solemn Declaration that 'these United Colonies are, and of right ought to be, free and independent States.'<sup>1</sup>

The charter with which the Virginia Company leads the way in 1606 does not expressly erect a corporation.<sup>2</sup> The King 'grants and agrees' that two groups (one of Londoners, the other of Bristol, Exeter and Plymouth Adventurers) shall be called the *First Colony* and the *Second Colony* respectively. Each colony had power to inhabit and remain in a specified district, unlicensed habitation in their Hinterlands being forbidden; each was to be governed by a local Council of thirteen and by a 'Council of Virginia' to be established in London.<sup>3</sup> By the second Virginia charter,<sup>4</sup> issued by way of 'further enlargement and explanation,' this somewhat rough-hewn licence to colonise is supplemented with words of formal incorporation.<sup>5</sup> The grant of territory is confirmed, the distribution of lands is authorised,<sup>6</sup> the exemptions from customs are increased, and the Oath of Supremacy is exacted from all who 'pass in any voyage' to the colony.<sup>7</sup> A third charter in 1612<sup>8</sup> added the Bermudas to the Company's territory. At the same time a weekly Court for casual matters of minor importance was established, and 'four great and general courts' for the quarterly consideration of weightier affairs.<sup>9</sup> A notable clause empowered the Council to apprehend by their warrant all deserters, mutineers and maligners of the colony, some of whom had 'endeavoured by most vile and slanderous reports . . . to bring the said voyage and plantation into disgrace and contempt.' Such offenders could be bound over and proceeded against in England, or remanded to Virginia for punishment. A lottery was licensed in support of the enterprise.<sup>10</sup>

<sup>1</sup> See *Cambridge Modern History*, vii., c. 6 (The Declaration of Independence), especially the arguments at pp. 196-202.

<sup>2</sup> *Patent Rolls*, 3 Jac. I., pt. xix.

<sup>3</sup> There is a right of local mint; compare the Newfoundland clause, *post*, p. 55.

<sup>4</sup> *Patent Rolls*, 7 Jac. I., pt. viii.

<sup>5</sup> Including power to purchase lands in the United Kingdom, to elect officers, admit freemen, etc. The list of persons incorporated includes no fewer than fifty-six City Companies of London.

<sup>6</sup> Respect is to be had 'as well of the proportion of the Adventurer, as to the special service, hazard, exploit or merit of any person.' Cf. *ante*, p. xxxvi. (7).

<sup>7</sup> Compare the Newfoundland clauses, as starred, *post*, pp. 55-61.

<sup>8</sup> *Patent Rolls*, 9 Jac. I., pt. iii.

<sup>9</sup> Cf. the four mornspeeches of early gilds (Toulmin Smith, *Gilds*, pp. 4, 10, 45, etc.).

<sup>10</sup> This expedient was repeated for the Royal Fishing Company, see *post*, p. cv., and compare the clause, *post*, pp. 184-5.

These second and third charters had been issued to the 'first' or 'London' colony of Virginia, which in 1619 could claim to be the scene of the first colonial representative assembly ever summoned. The factiousness of the members, however, and the 'popularity' of the government led to the annulment of the charter in 1624. Arguments against subsequent re-incorporation were easily collected, it being alleged that the colony fared the better for its loss of privileges.<sup>1</sup> The constitution now set up by the Crown (consisting of a Governor and two Chambers, the one nominated and the other popularly elected) had considerable influence upon our colonial history. Before the dissolution of the Company, the Bermudas Islands (first christened Virginiola but afterwards called Somers Islands<sup>2</sup>) were conceded to eleven purchasers. The latter in turn surrendered to the King, who thereupon incorporated the *Governor and Company of the City of London for the Plantation of the Somers Islands*.<sup>3</sup>

The principal members of the 'second' or 'Plymouth' colony in Virginia, with Sir Ferdinando Gorges and others, 'intending to erect and establish fishery, trade and plantation,' asked for a separate incorporation in 1620.<sup>4</sup> A body politic, consisting of 'forty persons and no more,' was accordingly created 'in our town of Plymouth in the County of Devon,' with colonial territory which was thenceforth to be named *New England in America*.<sup>5</sup>

Passing by the Mayflower Compact—wherein the emigrants of 1620, without recourse to royal sanction, 'by these presents solemnly and mutually, in the presence of God and one of another, covenant and combine [themselves] together into a civil body politic'<sup>6</sup>—we come next to the *Company of the Massachusetts Bay in New England*. Under its charter<sup>7</sup> Sir Henry Rosewell and others were incorporated

<sup>1</sup> See *S. P. Colonial*, vi. 32.

<sup>2</sup> 'Because of the continual temperate air, and in remembrance of Sir Geo. Somers' (*S. P. Dom. Jac. I.*, lxviii. 62).

<sup>3</sup> *Patent Rolls*, 13 Jac. I., pt. xix. The grant contains a clause for setting apart 'the public lands and profits . . . for general and public charges not to be alienated,' and, in case of rebellion, gives the Chief Commander 'such power as our Lieutenants of our Counties in England have'; cf. *post*, p. 60. (See Scott, ii., 263-266 and map in frontispiece, as to division of lands: see also *Historical Geography of the British Colonies*, II. (West Indies), s. i.)

<sup>4</sup> *S. P. Colonial*, i., 47.

<sup>5</sup> *Patent Rolls*, 18 Jac. I., pt. xvi. The

grant recites God's wish for the simultaneous conversion of the savages and enlargement of the dominions of the Crown. The provision against mutineers and slanderers is extended to all who, receiving wages, apparel, etc., from the Council, contract to make the voyage and afterwards withdraw or hide.

<sup>6</sup> Printed by Macdonald, *Select Charters*, etc., at p. 33. With this example of a social contract, compare the Fundamental Orders of Connecticut (printed *ibid.*, p. 61), autonomy at Surinam in 1662 (*S. P. Colonial*, xvi. 92, 102), and the voluntary association of the French merchants, *ante*, p. xxvi.

<sup>7</sup> *Patent Rolls*, 4 Car. I., pt. xi.



and confirmed in the possession of lands previously granted by the New England Council. Local self-government was assisted by the deliberate omission to create a government resident in England after the Virginian pattern.<sup>1</sup> In 1684 serious complaints of illegal impositions, coining, appropriation of moieties and forfeitures, ill-treatment of royal officers, religious persecutions and breaches of the Navigation Acts,<sup>2</sup> culminated in *quo warranto* proceedings and the loss of the charter. A few years later a second grant was issued,<sup>3</sup> the territory being 'erected, united and incorporated into one real province by the name of our *Province of the Massachusetts Bay in New England*,' with a Governor, a Lieutenant or Deputy-Governor, a Secretary and twenty-eight Assistants or Councillors. For the right of electing to the annual General Court of Assembly voters were qualified by holding an estate of freehold worth forty shillings a year or other estate to the value of forty pounds. 'Liberty of conscience' was to be 'allowed in the worship of God to all Christians except Papists.'<sup>4</sup> Judges, Commissioners of Oyer and Terminer and other officers were to be nominated, and civil and criminal courts were to be set up; but matters of probate and administration were reserved for the Governor and Assistants, and 'in any personal action wherein the matter in difference doth exceed the value of £300 sterling' there was a right of appeal to the Privy Council. The safeguards included the Governor's power to veto laws, elections or other acts of government, and the power of the Privy Council to disallow any law within three years. For naval purposes all trees of a certain height and diameter were, if not previously granted to any private person, reserved to the Crown.<sup>5</sup>

Meanwhile a plantation was established upon the Mosquito coast, which conducted the development of its land under one entire joint stock.<sup>6</sup> In 1630 the Earls of Warwick and Holland with other adventurers obtained the sole trade to the islands of Providence (formerly Catalina) and Henrietta (formerly Andrea). These islands being formally re-named and taken into the King's protection and possession, a

<sup>1</sup> See Egerton, *Origin and Growth of English Colonies*, p. 89.

<sup>2</sup> See *S. P. Colonial*, 1681-5, Nos. 122 (Attorney-General's opinion) and 266 (recapitulation of complaints and royal ultimatum). A minute of *quo warranto* proceedings in 1635-1637 is preserved in *S. P. Colonial*, ix. 50.

<sup>3</sup> *Patent Rolls*, 3 W & M., pt. vii.: see the collection of materials gathered in *State Papers*, C. O., v. 855, No. 158.

<sup>4</sup> This clause was followed in the Georgia grant (*Patent Rolls*, 5 Geo. II., pt. iii.)

<sup>5</sup> Compare *post*, p. 48.

<sup>6</sup> See Scott, ii., pp. 328-337. A single share eventually came to £1000 after sundry calls; but it was agreed that if a member 'shall refuse to go further in the Adventure, he shall not be pressed thereto' (*Colonial Entry Book*, iii., p. 80): see *ante*, p. xviii. (1).

company was formed of *Adventurers of the City of Westminster for the Plantation of the Islands of Providence, Henrietta and the Adjacent Islands lying upon the Coast of America*,<sup>1</sup> with such privileges as had previously been granted 'to the Companies of Virginia, Somers Islands, New England, Amazons,<sup>2</sup> or to any other Company, body politic or corporate, or to any adventurers of any discoveries, plantations or traffics of, in, or into any foreign parts whatsoever.' The Adventurers were interested in planting sugar-cane, cotton, silk grass and mulberry trees. The silk grass (called Camock's grass, after Captain Sussex Camock, a servant of the Company<sup>3</sup>) was found, when sent home, superior to ordinary flax.<sup>4</sup> An independent company was chartered to trade to America and to exercise for fourteen years the sole right of manufacturing and selling 'Camock's flax' and other new materials to be discovered in those parts.<sup>5</sup>

The liberties specified in the Providence grant of 1630 include an 'exchange or mint' with mint-masters, wardens, coiners and others;<sup>6</sup> also 'treasure trove, goods and chattels of felons and felons of themselves, waifs and estrays, pirates' goods, deodands, fines and amerciements of all the inhabitants,' and wrecks. Such concessions are comparable with the remarkable terms under which certain individual proprietors received territory in America. In Calvert's Latin grant of Avalon,<sup>7</sup> which gave a model to Maryland, Carolina and Pennsylvania, the King not only erected a province<sup>8</sup> but also engrafted thereon the palatine powers of a Bishop of Durham.<sup>9</sup> The closely similar Latin grant of Maryland went even further. Baltimore was authorised to enfeoff, the statute of *Quia emptores* notwithstanding, and to erect manors

<sup>1</sup> *Patent Rolls*, 6 Car. I., pt. i. *Colonial Entry Book*, iv. p. i. (see minutes in that volume): see *Historical Geography of the British Colonies*, ii. (West Indies), pp. 78, 298. 301. A subsequent extension (see *P. R.*, 7 Car. I., pt. xiv.) included Tortuga.

<sup>2</sup> See *post*, p. xci.

<sup>3</sup> *Colonial Entry Book*, iv. p. 68. See, however, *N.E.D.*, s.v. 'cammock.'

<sup>4</sup> *Colonial Entry Book*, iii., p. 244.

<sup>5</sup> *Patent Rolls*, 11 Car. I., pt. viii. See *ante*, p. lxi. (2).

<sup>6</sup> With power to 'make and strike into coin any metal not being gold or silver' with any figure or inscription (if different from those in England); such coin to be lawful currency in those parts.

<sup>7</sup> *Patent Rolls*, 21 Jac. I., pt. xix.

<sup>8</sup> *Ut vero predicta regio . . . omnibus illius terrae regionibus praejuleat et amplioribus titulis decoretur . . . in provinciam erigimus et incorporamus eamque terram Avalon seu provinciam Avalonie nominamus.*

<sup>9</sup> See *ante*, p. xxvii. (3). (Cf. the West Indies grants, *post*, p. xci.) To the Maryland grant objection was taken that a particular bishop should be specified, also that there was no exception of writs of error or final appeal to the King 'as by law ought to be,' and that the Act 27 H. VIII., c. 24, left indictments, process, and the appointment of justices to the King alone (*S. P. Colonial*, vi. 59). For the *comes palatii* and his introduction to England, see Lapsley, *County Palatine of Durham*, pp. 3-10; see also *post*, p. lxxxviii. (2).



with court-baron and view of frankpledge.<sup>1</sup> Mason's grant of New Hampshire and Massonia lacks some of these regalities,<sup>2</sup> but Gorges' patent for Maine in 1639 includes the rights of patronage, advowsons, gold and silver, 'sulphur, brimstone and other metals,' treasure-trove, wreck, and the rest, along with the power to incorporate towns.<sup>3</sup> Charles II. also created a province and palatinate, largely translating for Carolina<sup>4</sup> a neglected Latin patent which Charles I. had given to Heath in 1629.<sup>5</sup> Some typical privileges granted by the father for conferring honours and titles (except such as were usual in England) and for granting municipal incorporation<sup>6</sup> were repeated by the son; but a novel feature of the later grant is the power 'for the good and happy government of the said province' to make 'any laws whatsoever either appertaining to the public state of the said province or to the private utility of particular persons . . . with the advice, assent and approbation of the freemen' or their delegates or deputies for that purpose assembled. When these words came to be repeated in the Pennsylvania grant of 1681,<sup>7</sup> certain safeguards were added. A duplicate of any law made in the colony was to be delivered within five years to the Privy Council, who might then within six months declare the law void. The authority of England in matters of revenue and foreign policy was defined, and an Attorney or Agent was to be established in London to answer for any

<sup>1</sup> *Patent Rolls*, 8 Car. I., pt. iii. (See grant printed in *Constitutions, Colonial Charters, etc., of the U.S.*, i., pp. 811-81). *Quia emptores* was dispensed with also in Gorges' grant of Maine, and in the Carolina charters with slightly variant words as to court-baron, court-leet and frankpledge: for Pennsylvania it was added that the erection of manors should create no further tenure, but that upon further alienation the lands should be held of the same lord by like rents and services. The statute was held in 1836 not to apply in Pennsylvania (*Ingersoll v. Sergeant*, 1 Wharton, Penn. Rep. pp. 347-352); see, however, *Wallace v. Harmetad*, 44 Pa. 492. See generally, Gray, *Rule against Perpetuities*, pp. 15-23.

<sup>2</sup> *Colonial Entry Book*, lix., pp. 127-130. (See grants printed in *Constitutions, Colonial Charters, &c., of the U.S.*, ii., pp. 1270-4). His tenure ('*per gladium comitatus*', that is to say, by finding four able men conveniently armed and arrayed for the war to attend upon the Governor of New England') has a parallel in the contemporary grant of the 'county of Canada' made in 1635 to Alexander by the Council of New England (*S. P. Colonial*, viii. 86).

Cf. the *gladius* of the *Comes Cestriae*, Pollock and Maitland, i. p. 182.

<sup>3</sup> *Patent Rolls*, 15 Car. I., pt. xxv. (*Constitutions, etc., of U.S.*, i., pp. 774-83).

<sup>4</sup> *Patent Rolls*, 15 Car. II., pt. ii. (*Constitutions, etc., of U.S.*, ii., pp. 1382-92: see *ibid.*, pp. 1390-7, the enlarged grant of 1665 (*P. R.* 17 Car. II. pt. v.)).

<sup>5</sup> *Patent Rolls*, 5 Car. I., pt. v., erecting the province *Carolana* (a gold coronet of 20 oz. weight to be rendered therefor). Compare the general terms of the Avalon and Maryland grants (*supra*). After Heath's non-user, it was ordered that future plantation grants should contain a clause of avoidance for neglect to plant within a certain time (*Acts of the Privy Council (Colonial)*, 1613-1680, p. 369).

<sup>6</sup> *Favores, gratias, et honores in benemeritos cives infra provinciam predictam inhabitantes conferendi eosque quibuscumque titulis et dignitatibus decorandi . . . villas item in burgos et burgos in civitates . . . erigendi et incorporandi*. Cf. Lapsley, *County Palatine of Durham*, pp. 35-6.

<sup>7</sup> See *ante*, p. xxvii (6).

misdemeanours, wilful defaults, or neglects on the part of Penn, his heirs or assigns.

Leaving these proprietary grants, one finds greater conciseness in the instrument by which during the Commonwealth the Earl of Warwick (newly ordained Governor in Chief and Lord High Admiral of the Plantations<sup>1</sup>), with Oliver Cromwell and his fellow Commissioners, gave the townspeople of Providence, Portsmouth and Newport 'a free and absolute charter of incorporation, to be known by the name of the *Incorporation of Providence Plantations in the Narraganset Bay in New England*.'<sup>2</sup> Though 'full power and authority to rule themselves' and to make 'civil laws and constitutions' was conceded,<sup>3</sup> there was no conveyance or confirmation of territory. At first the colonists met for legislative purposes in each town in succession: later, each proposed law required a majority of votes in each town separately: finally a normal representative assembly was set up after a fresh charter in 1663 had incorporated the *Governor and Company of the English Colony of Rhode Island and Providence Plantations in New England in America*.<sup>4</sup> This grant, which encouraged the planting of vineyards, whale-killing and general fishery, declared that the Indians must not be invaded or molested by other colonies without the knowledge and consent of the Company. Appeal to the Crown was authorised in cases of inter-colonial controversy. In the previous year the *Governor and Company of the English Colony of Connecticut in New England in America* had been incorporated.<sup>5</sup> The attempt of James II. to brigade the plantations under the single governorship of Andros involved an attack on the charters of Rhode Island and Connecticut. When that administration ended, the authority of the charters was restored.<sup>6</sup>

Space does not suffice to enlarge this account of the American plantations, to trace the controversies begotten by the overlapping of grants, or to discuss the religious or other motives which played their part in colonisation. Designed for abiding and populous settlements in a fair climate, the American grants are necessarily different from the African or East Indian, which contemplated nothing more permanent than trading stations or forts for facilitating annual voyages.

<sup>1</sup> *Acts and Ordinances of the Interregnum*, i., pp. 331-2.

<sup>2</sup> *S. P. Colonial*, xi. 2: 'Providence Plantation' is to be distinguished from the Providence Island, *ante*, p. lxxxvi.

<sup>3</sup> The Earl and Commissioners reserved power to 'dispose the general government as thought best in relation to the other plantations.'

<sup>4</sup> *Patent Rolls*, 15 Car. II., pt. xv.

<sup>5</sup> *Patent Rolls*, 14 Car. II., pt. xi. (the

territory included New Haven, a settlement which in 1643 had united with others in a self-constituted government; Macdonald, *Select Charters*, etc., pp. 101-4).

<sup>6</sup> See, for Rhode Island, *S. P. Colonial*, lvii. 116, lviii. 3 (as to surrender), and *Colonial Entry Book*, lxii., pp. 109, 189 (as to resumption). The Connecticut charter is stated to have been hidden in an oak tree from 1687 to 1689.



Somewhere between the two, perhaps, is the grant to the *Governor and Company of Adventurers of England Trading into Hudson's Bay*.<sup>1</sup> Incorporated in 1670, with sole right of trade and fishery<sup>2</sup> in the territory which thenceforth was to be 'reckoned and reputed as one of our plantations or colonies in America and called Rupert's Land,' with Prince Rupert for its first Governor and a Committee of seven, the Company was able, twenty years later, to fortify with an Act of Parliament<sup>3</sup> a charter not yet outworn but lately made modish with the Debenture and the Preference Share.<sup>4</sup>

The earlier history of Canadian settlement is largely concerned with Sir William Alexander, a Scot whom James in 1621 made 'hereditary Lieutenant General' in the incorporated Barony of Nova Scotia.<sup>5</sup> 'As we were pleased,' wrote the King in 1624, 'to erect the honour of Knight Baronets within this our Kingdom for the advancement of the Plantation of Ireland,' so also in New Scotland contributors were to be similarly encouraged.<sup>6</sup> The grant of privileges was renewed to Alexander in 1625,<sup>7</sup> and supported with power to arrest and make prize of the ships of the King of Spain and the Infanta Isabella.<sup>8</sup> For services in the French War in winning territory and capturing the Fort of Quebec, and for handing over that Fort to France without satisfaction,<sup>9</sup> Alexander and the Kirkes and others (alleged to have spent £50,000 in their efforts) received a grant of the sole trade to Canada for thirty-one years.<sup>10</sup> Oliver Cromwell issued a patent to Lord Delatour, Thomas

<sup>1</sup> *Patent Rolls*, 20 Car. II., pt. iii. (printed by Willson, *The Great Company*, 1667-1871, ii., p. 138: original at Company's office).

<sup>2</sup> 'Together with the royalty of the sea,' mines royal, gems, etc., the patentees to yield two elks and two black beavers. The royal fifth of gold and silver is omitted.

<sup>3</sup> See *Commons' Journals*, x. p. 422. The opposition of the Felt-makers was met by a proviso for public sales of 'coat-beaver' (cf. *ante*, p. xlvii. (6)).

<sup>4</sup> See the supplementary charter of 1912. The surrender (see 30 & 31 Vict. c. 3, s. 146; 31 & 32 Vict. c. 105) was compensated in 1870. See charter, *Patent Rolls*, 48 Vict., pt. ii.

<sup>5</sup> The King made Alexander, his heirs and assigns *nostros haereditarios locum tenentes generales ad representandum nostram personam regalem tam per mare quam per terram*, with various liberties *sicuti quivis baro major aut minor in hoc regno nostro gavisus est aut gaudere poterit*. Canada thus became a province (*facimus, unimus, annexamus, erigimus, creamus et*

*incorporamus*). The grant is printed in *Nova Scotia, Royal Letters and Tracts*, 1621-1638 (Bannatyne Club), pp. 3-15; *Registrum Magni Sigilli Regum Sclotorum*, 1620-1633, No. 226 (compare *ibid.*, 233, 790-2, 794, 796-7, etc., creating various baronies in North America named after the various grantees).

<sup>6</sup> See documents printed in *Nova Scotia* (*ut supra*), pp. 18-20, including the Proclamation anent Baronettis. Cf. *ante*, p. lxxxii.

<sup>7</sup> The grant is printed *ibid.*, p. 27, and cited in *S. P. Colonial*, iv. 23.

<sup>8</sup> *Ibid.*, dated 3 May, 1627.

<sup>9</sup> See *S. P. Colonial*, vi. 46, 47.

<sup>10</sup> *Patent Rolls*, 9 Car. I., pt. vii. (And because the natives 'do come very far out of their countries at a certain season and but once a year to trade and barter,' the patentees' ships were not to be stayed: compare herein and generally the African lease, *ante*, p. xlv. (7): see also *post*, p. 37.) For the New England grant of 1635, see *ante*, p. lxxxviii. (2).

Temple and William Crowne in 1656 for exclusive trade to Laccady (L'Acadie) and Nova Scotia.<sup>1</sup>

In the West Indies, Charles I. set up palatinates after the Durham pattern, which had been followed in Maryland and elsewhere.<sup>2</sup> In South America, at least two trading companies of normal type arose from the efforts of Raleigh,<sup>3</sup> Harcourt and North. James I. 'thought good to signify' that 'he determined and decreed Robert Harcourt, his partners and co-adventurers, very worthy quietly to enjoy what profits soever they shall lawfully reap' by an intended voyage: he therefore exhorted the crew to obedience, warned mutineers and deserters that they should be strictly called to account on their return, and authorised the captain to use discipline against offenders, 'life and limb always saved.'<sup>4</sup> Harcourt's adventure was subsequently encouraged by a grant of lands discovered in Guiana,<sup>5</sup> the King expressing himself as 'tied and bound by our duty to Almighty God and our regal office' to enlarge the territories of the Christian Church in lands inhabited by heathen 'having no knowledge of any Christian religion nor of any moral virtues for the salvation of their souls or education of their persons.' After the death of the patentees (Harcourt, Rovenzon and Challoner), a fresh grant was made upon the petition of Roger North, creating the *Governor and Company of Noblemen and Gentlemen of the City of London Adventurers for a Plantation in or about the River of Amazons*.<sup>6</sup> North, like Raleigh,<sup>7</sup> was flung over by the King at the instance of Gondomar, the Spanish Ambassador;<sup>8</sup> but, a few years later, Charles, declaring the territory 'annexed to the Imperial Crown of this our Realm,'

<sup>1</sup> *S. P. Colonial*, xiii. 11 (see Indenture, *ibid.*, 4). All mines discovered were to be reported at once.

<sup>2</sup> See the two overlapping grants issued to the Earls of Carlisle and Montgomerie (*Patent Rolls*, 3 Car. I., pt. xxxi., the Caribbees, named province of 'Carloli': *ibid.*, pt. xxx., the province of 'Montgomeria,' including *insulas de Trinidad, Tabago, Barbudos et Fonseca, alias Sancti Bernardi, et alias insulas*, said to be in trust for Courten (*Colonial Entry Book*, vi., p. 2): Ley, Earl of Marlborough, seems also to have had a patent). Apart from these Latin grants, Thomas Warner, alleged discoverer of S. Christopher, Nevis, Barbados and Montserrat, was given 'custody' of those islands, with powers to govern as royal 'Lieutenant.' At his death, Jeaffreson (after him, someone chosen by the English residents) was to

fill his place (*Patent Rolls*, 1 Car. I., pt. vi.).

<sup>3</sup> See Raleigh's account of the *Discovery of Guiana* (Hakluyt Soc., 1848), and introduction thereto. His final expedition was made under *Patent Rolls*, 14 Jac. I., pt. i. dors.

<sup>4</sup> *Patent Rolls*, 6 Jac. I., pt. iv. Michael Harcourt, Ed. Fisher, Robt. Holland and Ralph Yardley were named successive and joint commanders in case of casualties.

<sup>5</sup> *Patent Rolls*, 11 Jac. I., pt. ix.

<sup>6</sup> Dated 1 Sept. 1620, according to *Patent Rolls*, 3 Car. I., pt. v. See *Acts of the Privy Council (Colonial)*, 1613-1680, pp. 37-8, as to surrender.

<sup>7</sup> See *S. P. Colonial*, viii. 90.

<sup>8</sup> *Ibid.*, ii., 18, and see *Acts of the Privy Council (Colonial)*, 1613-1680, pp. 31, 36-7.



incorporated the *Governor and Company of Noblemen and Gentlemen of England for the Plantation of Guiana*.<sup>1</sup> To obtain further royal protection it was suggested in 1629 that the company should offer the King £50,000 a year for twenty-one years, Charles being desired to contribute £48,000 (or £15,000 ready money) in order to equip 3000 men, ordnance and ships.<sup>2</sup> Six years later there was some talk of renewing North's patent, if he would consent to be bound therein to submit to ecclesiastical and civil government ;<sup>3</sup> but in 1638 a rival undertaking urged that the old company was doing nothing.<sup>4</sup>

Akin to the enterprise of oversea plantations was the winning of land nearer home. As soon as money seemed profitably laid out in the improvement and recovery of land, schemes of irrigation and reclamation, of 'drowning'<sup>5</sup> and draining, appeared. Among Elizabethan patentees there were several inventors or introducers of processes for water-raising,<sup>6</sup> mine-draining,<sup>7</sup> and land-draining.<sup>8</sup> Captain Thomas Lovell, who had learnt overseas the art of winning lands so that they could be sown with corn and flax,<sup>9</sup> spent considerable sums upon draining in Lincolnshire, being promised one-third (tithe-free) of the lands recovered.<sup>10</sup> The Fen district offered great opportunity both for land recovery and for the creation of waterways, if the hostility of the fenmen could be overcome. The assistance of Parliament was invoked on behalf of various schemes.<sup>11</sup> In the Great Level project Chief Justice Popham and Chief Baron Fleming were interested ; the adventurers stood to obtain 130,000 acres of the reclaimed portion.<sup>12</sup> In this case, as in other projects, King James intervened to take the business into his own hands.<sup>13</sup> During

<sup>1</sup> *Patent Rolls*, 3 Car. I., pt. v. (reciting the surrender of the grants 11 and 17 Jac. I.). See the printed proposals for subscriptions, *S. P. Colonial*, iv. 28.

<sup>2</sup> *Ibid.*, v. 28.

<sup>3</sup> *Ibid.*, viii. 51.

<sup>4</sup> *Calendar, S. P. Colonial*, ix., p. 270. For rival schemes see *S. P. Colonial*, viii. 89, and x. 81.

<sup>5</sup> See Rowland Vaughan *His Booke* (ed. Wood) for examples of 'winter and summer drowning of Meadow and Pasture,' promising tenfold fertility.

<sup>6</sup> See *Patent Rolls*, 40 Eliz., pt. ii. (Edward Wright).

<sup>7</sup> See *Patent Rolls*, 11 Eliz., pt. v. (Daniel Höchstetter); and grants to Medley, and to Burchsard Kranick (*ante*, p. lix. (6)).

<sup>8</sup> See Sir Thomas Goldinge's grant, *Patent Rolls*, 13 Eliz., pt. ix. (combined with water-supply and the working of mills: see *S. P. Dom.*, Eliz., cxxvii. 57). See

Mostart's petition to Burghley, *ibid.*, cexli. 114), and Bradley's project (*ibid.*, cexliv. 97) to cost £5000 and bring in £40,000 annually, for which he desired a *tatute*.

<sup>9</sup> See recitals to his grant, *Patent Rolls*, 39 Eliz., pt. vi.

<sup>10</sup> Dugdale, *History of Imbanking and Draining*, pp. 205-7. (*S. P. Dom.*, Jac. I., viii. 84.) One half was sometimes the reward (see 8 Eliz., c. 22, and Acontio's statement as to Henry VIII.'s terms (*S. P. Dom.*, Eliz. (Add.), xi. 99), sometimes two-thirds (see 4 Jac. I., c. 13).

<sup>11</sup> See, for example, 22 H. VIII., c. 3 ; 27 H. VIII., c. 25 ; and 34. H. VIII., c. 9 (Thames embankments) : 37 H. VIII., c. 11 (Greenwich marshes) : 27 Eliz., c. 24 ; 43 Eliz., c. 11, etc.

<sup>12</sup> Dugdale, p. 383.

<sup>13</sup> Scott, ii., p. 353. Cf. *ante*, p. lxxviii. (8).

the reign of his successor several partnerships undertook similar schemes<sup>1</sup> in spite of local opposition.<sup>2</sup> The efforts of Francis Earl of Bedford were on such a scale that their ultimate success seemed unlikely without incorporation.<sup>3</sup> Bedford and certain others, whose shares in the enterprise appear in an indenture of 1631, covenanted together to undertake the expense. Each was to spend £500 per share (or more if required), and to be excluded from all benefit if he failed to contribute after ten days' warning. Shares were to be assignable.<sup>4</sup> The King incorporated the undertakers as the *Governor, Bailiffs, and Commonalty of the Society of Conservators of the Fens in the Counties of Cambridge, Huntingdon, Northampton, Lincoln, Norfolk and Suffolk, and the Isle of Ely*.<sup>5</sup> He stipulated for 12,000 acres for himself out of the 95,000 which the company was to receive. When the company had apparently succeeded, Charles, considering the work 'so imperfectly performed that the country and His Majesty remain much dissatisfied therein,' took the business into his own hands.<sup>6</sup> An Act of 1649, however, did something to reassure the adventurers,<sup>7</sup> who were further supported by a statute of Charles II.<sup>8</sup> According to an estimate by the Earl of Bedford in 1653, the operations had then cost nearly £300,000, and the expense of repairs absorbed £10,000 a year.<sup>9</sup>

## XII

Mention has already been made of the two great mining corporations created by Elizabeth.<sup>10</sup> The story of these and other mining companies shows the development of joint-stock enterprise.

Thurland, Master of the Savoy, and others interested in the

<sup>1</sup> Robert Tipper and partners and John Gason (1626), *S. P. Dom.*, Car. I., xxxii. 45 (petition for extension of time, *ibid.*, lxxvii. 17), *Patent Rolls*, 3 Car. I., pt. xxxi. Sir Anthony Thomas and Company, *ibid.*, cxlviii. 96, clii. 83 (proposal to drain at half profits), cliii. 30. See Lord Lindsey's scheme (*S. P. Dom.*, Car. I., cclxvii. 152, cclxxxvii. 72).

<sup>2</sup> See, for example, the accounts, *ibid.*, ccxc. 89, ccxcii. 28, 45: cf. the adverse view of the Commissioners of Sewers for Suffolk, *ibid.*, clii. 84.

<sup>3</sup> See *ante*, p. xviii.

<sup>4</sup> The Indenture (*S. P. Dom.*, Car. I., cciv. 39) is printed by Cole, *Collection of Laws of the Bedford Level Corporation* (1803), pp. 23-34.

<sup>5</sup> *Patent Rolls*, 9 Car. I., pt. xviii, replaced by *P. R.*, 10 Car. I., pt. ii. (printed

in the Latin original, and in translation, by Cole, pp. 37-61, 65-90). There was provision for markets and fairs, and for building, endowing and consecrating churches and chapels. The ancient laws and customs of Romney Marsh in the County of Kent were engrafted upon the scheme.

<sup>6</sup> *S. P. Dom.*, Car. I., cccxxiii. 246.

<sup>7</sup> *Acts and Ordinances of the Interregnum*, ii., p. 130.

<sup>8</sup> 15 Car. II., c. 17.

<sup>9</sup> *S. P. Dom.*, Interreg. xxxix. 97. There was a petition for incorporation of the Hatfield Chase draining work (*ibid.*, cxxix. 145) which Vermuyden had begun under agreement with Charles I. (*Patent Rolls*, 2 Car. I., pt. xxiii.)

<sup>10</sup> *Ante*, p. lxi.



possibilities of English mining, attempted in 1561 to induce Hans Steinberg to come over from Germany. The German was dissatisfied with the terms proposed,<sup>1</sup> and eventually his place was filled by another named Höchstetter,<sup>2</sup> who, with Thurland, received a patent in 1564 for mining in certain counties.<sup>3</sup> A company was formed;<sup>4</sup> German workmen were brought over;<sup>5</sup> and various privileges were obtained.<sup>6</sup> Copper ore was found in Cumberland, including a mine at Newlands, near Keswick, 'the best in England.'<sup>7</sup> There was plenty of copper ore, wrote Thurland to Cecil, but the cost of working proved more chargeable than had been imagined.<sup>8</sup> Moreover, there was some friction and suspicion between English and Germans.<sup>9</sup> Further, a controversy arose with the Duke of Northumberland, who, protesting that the workers were trespassers upon his property, refused to allow them to carry away the ore they obtained.<sup>10</sup> This dispute was ended in Court by a decision which defined for many years the nature of a Royal Mine.<sup>11</sup>

The proposals of Höchstetter in 1565 throw light upon the company promoting of the period. He asks leave to erect his water-draining engines, asserts his mining skill, and, as a set-off against his expenses, desires a monopoly. No others ought to use the privileged process or equipment 'unless the same order or means have been heretofore used within the space of twenty years last past.' 'He hath determined to join with him in company divers others, and in that respect doth mean to make dividend of the commodities and profits.' There were to be fifty shares: he proposed 'to reserve to himself some parts of the same, and

<sup>1</sup> See *S. P. Dom.*, Eliz., xviii. 18, and 18 (1) (Indenture between Elizabeth, Steinberg and Thurland). Steinberg wanted free wood, the forfeiture of infringers' instruments, and no parson's tithe or profits.

<sup>2</sup> *Ibid.*, xxxiv. 59 (on application by Thurland and Sebastian Spydell and Company). Hechstetter, Houghsetter, Howseter, Hogstetter, and Hextecher are among many variant spellings of his name.

<sup>3</sup> See *post*, p. 4. Their Indenture with Elizabeth (see *S. P. Dom.*, Eliz., xxxv. 3) provided for not more than 24 partners, of whom 16 must be English born.

<sup>4</sup> A list of shareholders in 1571 (*ibid.*, xxvii. 29 (1)) may be compared with a list of 1580 (*ibid.*, cxliv. 33). See the details in Collingwood, *Elizabethan Keswick*, pp. 2-4, and Scott, ii., p. 387.

<sup>5</sup> *S. P. Dom.*, Eliz., xxxvi. 59 (for bringing in 300 or 400 foreign workmen), 62. The Mayor of Newcastle was ordered to look

out for, and conduct to Keswick, 40 or 50 Almains (*Acts of the Privy Council* 1558-1570, p. 229). See the bond in 1566 for sending over 20 or 30 skilled Germans with apparatus (*S. P. Dom.*, Eliz., xl. 74).

<sup>6</sup> *Ibid.*, xxxvi. 43 (release from fifteenths, tenths and other impositions); 62 (power to fell and take timber); 87 (power to maintain discipline).

<sup>7</sup> *Ibid.*, xxxvi. 59, xl. 41: see also xlv. 16 (Borrowdale workings) and, for the various sites of work, *Elizabethan Keswick*, pp. 9-12.

<sup>8</sup> *S. P. Dom.*, Eliz., xl. 64.

<sup>9</sup> See, for example, *ibid.*, xxxvii. 21, 73; xxxix. 57, 80. The alleged murder (xl. 81) is discussed in *Elizabethan Keswick*, pp. 17-18.

<sup>10</sup> *Ibid.*, xlii. 18, 31, 32, 33, 34, &c. An attempt to settle by an exchange of land failed (*ibid.*, 68).

<sup>11</sup> See *The Case of Mines*, Plowden, 310.

some parts of goodwill and friendship to dispose freely unto others, and of the rest to levy upon agreement of such as shall participate therein such sums of money as he shall think may answer to the travails and charges in that behalf sustained.' Of the free shares he offered one each to the Earls of Pembroke and Leicester, to Cecil, and to Tamworth and Alderman Duckett, 'desiring that it may please them to accept the same in good part.'<sup>1</sup>

The charter granted in 1568<sup>2</sup> to the Society of the Mines Royal is unlike the older municipal or other charters in that it bases membership not on freedom but on a definite holding of shares. In other respects it is like enough. There is the old power to make and execute laws and ordinances, and to hold courts, while, in a series of provisions proper to companies of merchants trading abroad, there is the power to do speedy justice, and to punish the contrarious, rebelling or disobedient,<sup>3</sup> the direction that offenders do not decline from or refuse the justice and authority of the Governor and officers, and the permission to appoint sergeants, levy fines and arrest offenders.<sup>4</sup>

The manifold activities of the corporation appear in the account-books, fortunately preserved, written by the German managers.<sup>5</sup> In 1570 Richard Dudley was appointed, upon Lionel Duckett's recommendation, as local superintendent on behalf of the Queen.<sup>6</sup> Later, Hans Loner came to reside in London as agent for the German shareholders.<sup>7</sup> The agitation of foreign financiers, who found the mines a continual drain upon their resources,<sup>8</sup> now disclosed the fact that behind Höchstetter, Ulstätt and Loner, was the great firm of Haug,<sup>9</sup> which in October 1570 sent letters to Elizabeth, to Leicester and to Burghley, asking for a confirmation of the mining privilege.<sup>10</sup>

<sup>1</sup> *S. P. Dom.*, Eliz., xxxvi. 95.

<sup>2</sup> See patent printed *post*, p. 4, and compare the articles suggested in 1564 (*S. P. Dom.*, Eliz., xxxiv. 58).

<sup>3</sup> See, *ante*, p. xii. (1).

<sup>4</sup> See the suggested origin, *post*, p. 14 (1).

<sup>5</sup> See the valuable extracts in *Elizabethan Keswick*. The company bought Vicar's Island in 1569 (see *Patent Rolls*, 11 Eliz., pt. v.).

<sup>6</sup> *S. P. Dom.*, Eliz., lxviii. 32.

<sup>7</sup> *Elizabethan Keswick*, pp. 94-5. Loner is often spelt Lover or Louver in English documents; see *post*, p. 5.

<sup>8</sup> See the letters of Langenauer to Loner (*Elizabethan Keswick*, p. 97), of Loner to Cecil (*S. P. Dom.*, Eliz., lxxiv. 21, suggesting that the Queen's contract for 3000 or

4000 quintals of copper be increased a hundred times); of Loner to the Queen (*ibid.*, 47 (1)), and of Höchstetter to Cecil (*ibid.*, 56) asking for publication of amounts of copper delivered (as to which see *S. P. Dom.* (Add.), Eliz., xx. 103).

<sup>9</sup> See *Elizabethan Keswick*, p. 2, citing Meilinger, *Warenhandel der Augsburger Handelsgesellschaft Anton Haug, Hans Langenauer, Ulrich Linck*, etc., 1532-1562. Originally dealing in textiles and spices, the firm is said to have taken over from the Fuggers' mines in Hungary.

<sup>10</sup> *S. P. Dom.*, Eliz., lxxxi. 30-32 (signed Johannes Langenauer, Melchior Linck, Ludovicus Haug *prose et haeredibus Davidis Haugii*, Antonius Haug, Johannes Conradus Haug, *alias* David Haug, Johannes



Towards the end of the sixteenth century the mines were leased.<sup>1</sup> In 1597 Cecil and some of the shareholders got a disappointing answer to their inquiries. Wet weather had caused delay; wages and debts absorbed over £2000, and a stock of that amount should always be kept in hand.<sup>2</sup> Two years later the Privy Council inquired again. They pointed out the great cost bestowed on the Keswick mines in order that the country might be independent of foreigners for ordnance, and directed Lord Scrope to pay a surprise visit to investigate the conduct of the foreign workmen, who were suspected of enriching themselves at the expense of the company. If it were truly reported that no profit was to be expected, 'it were a folly to bestow any more cost.'<sup>3</sup> A financial report of the North Country mines from 1563 to 1599<sup>4</sup> showed that the Queen had received £4500 in royalties; but the expense of the company had exceeded the profits derived from sale of metals by about £36,000.

James I. issued a second charter on the lines of the first.<sup>5</sup> Thenceforward the company seems to have been devoted, not to active mining, but to the levying of licence-money upon other groups.<sup>6</sup> In 1624 a proclamation announced the King's pleasure to lease the royal mines (save those in Cardiganshire) for terms of twenty-one years upon payment (after two years) of one-tenth of the profits. The leases were to be conditional upon effectual working, and the land-owners were to have preference in applications for them.<sup>7</sup>

The Cardiganshire mines, which came into importance as the work-

Langenauer *et consortes dicti*. They labour to explain to the Queen *cur alieno potius quam nostro nomine tentare hactenus fortunam maluerimus*, and say they have spent up to 100,000 crowns. (It was said in 1563 that Germans were prepared to spend £5000 on English mining, *S. P. Dom.* (Add.), Eliz., xi. 94).

<sup>1</sup> For Höchstetter's offer and Smyth's lease, see Scott, ii., pp. 394-8. Thomas Smyth, Customer, of London, worked in Cornwall at Treworthy (*S. P. Dom.*, 1581-1590, *passim*). Ulrich Frose or Frass, his agent, insisted on the need of deep mining, an expensive process (*S. P. Dom.*, Eliz., clxx. 37: see *ibid.*, 3, where it is said that German miners worked 30 or 40 fathoms deep before they reached ore). The copper was sent to Neath for smelting (*ibid.*, clxxii. 16, excix. 18). Joachim Ganse offered to work a new smelting process in 1582 (*ibid.*, cli. 38). See Francis, *Smelting of Copper in the Swansea District*.

<sup>2</sup> *S. P. Dom.*, Eliz., cclxiv. 30 and 30 (1).

<sup>3</sup> *Ibid.*, cclxxi. 40.

<sup>4</sup> *Ibid.*, cclxxv. 145: see Scott, ii., pp. 399-400, for an analysis of the figures.

<sup>5</sup> See *post*, p. 15. The omission to style the corporation as of some place is made good in the corporate name of this second grant. Compare *ante*, pp. xxiv. (4), xxxix. (9).

<sup>6</sup> There was, for example, a group of lessees working in Pembrokeshire (*S. P. Dom.*, Jac. I., clxvii. 6) and another in Cornwall later (*S. P. Dom.*, Car. I., ccxviii. 73), while the Cumberland mines were leased to Daniel and Joseph Höchstetter, who in 1627 were released by the King and the company respectively from the moieties of the fifteenth on all copper won: it was then stated that these mines had been decayed for ten years (*S. P. Dom.*, *Warrant Books*, xx. 2). Licences from the Society for mining in Carmarthen, Carnarvon, and Flint were supported by the Privy Council (*S. P. Dom.*, Car. I., cccxxvi. 68).

<sup>7</sup> *S. P. Dom.*, Jac. I., clxxxvii., No. 121.

ings elsewhere declined, were said by Pettus<sup>1</sup> to have brought considerable profit to Hugh Middleton, of New River fame.<sup>2</sup> After Middleton's death, Thomas Bushell, who had learnt mineralogy from Francis Bacon, sought to revive the Welsh mines, but met with many difficulties from lack of wood, the jealousy of neighbours, and negligent working.<sup>3</sup> He obtained some favour from the King,<sup>4</sup> but before he could obtain a renewal of Middleton's grant he had to buy out Lady Middleton's interest in the Cardigan works.<sup>5</sup> Bushell appears to have secured some success, and continued mining until after the Restoration.<sup>6</sup>

By the time that Charles II. was King, the Mines Royal were largely controlled and owned by the same persons as the Mineral and Battery Works; the two companies were therefore amalgamated. According to Moses Stringer (who was Governor in 1709),<sup>7</sup> 'a conference was had in the Robes Chamber in Whitehall' in 1663 betwixt the Governors of the two societies, 'and that treaty was carried on to 1668, and then it was consummated and agreed that the said societies should be and become one sole and entire united company by the name, style, and title of the Governor, Assistants, and Society of the Mines Royal, the Mineral and Battery Works,' Courts being thereafter kept in that name.<sup>8</sup>

The Mineral and Battery Works, incorporated at the same date as the Mines Royal Society, owed their origin to the proposal of William Humphrey (an official at the Mint) to introduce 'battery works' into England in 1565.<sup>9</sup> He asked for a patent jointly with Christopher Shutz, a German, who was bound in the sum of £10,000 to communicate his art in mineral working.<sup>10</sup> Their patents for working certain calamine stone (carbonate of zinc) and for mining certain ores in counties are recited in the company's charter.<sup>11</sup> Humphrey wrote

<sup>1</sup> *Fodinae Regales*, p. 33.

<sup>2</sup> See *post*, p. 107. A lease of the Cardigan mines from the Mines Royal was confirmed to him by the King in 1625 for his New River achievement (*S. P. Dom.*, Jac. I., clii. 22). Bushell said Middleton extracted £50,000 worth of silver (*S. P. Dom.*, Car. I., cccxxxiv. 26).

<sup>3</sup> See Rymer, xx. 163 (proposal for a mint at Aberystwyth).

<sup>4</sup> See *S. P. Dom.*, Car. I., cccxciii. 78; cccxxv. 52.

<sup>5</sup> See his petition, *ibid.*, cccxxxiv. 26, and order thereon, cccxliv. 88.

<sup>6</sup> See *S. P. Dom.*, Car. II., lxx. 47.

<sup>7</sup> *Opera Mineralia Explicata* (1713), p. x.: see *post*, p. c.

<sup>8</sup> *Opera*, p. ix. But in a charter of

1693 (*post*, p. 240) the two bodies are separately named.

<sup>9</sup> *S. P. Dom.*, Eliz., xxxvi. 81: see *ibid.*, xxxvii. 30.

<sup>10</sup> *Ibid.*, xxxvii. 5. See Berty's recommendation of Shutz, *ibid.*, xl. 11.

<sup>11</sup> See patent printed *post*, p. 16: also the grants in *S. P. Dom.*, Eliz., xxxvii. 40 (mining), 43 (calamine stone), 44 (licence to dig for ores, impress men, horses and wagons, etc.). An Indenture between the Queen, Humphrey and Shutz (in 1567) provided for a royal tenth and for pre-emption: there were never to be more than eight strangers in the partnership, and their total interest was not to exceed one-third (*ibid.*, 42).



frequently to Cecil, but confessed in 1567 that years might pass before a profit arose.<sup>1</sup> Calamine stone was found in Somerset by German miners, iron in the Forest of Dean, and sea-coal within a mile of Bristol.<sup>3</sup> There was talk of a statutory confirmation of privileges,<sup>3</sup> but the company had to be content with incorporation by letters patent.<sup>4</sup> The grant of calamine stone raised the question of the extent of the royal prerogative.<sup>5</sup> The lawyers met in Serjeants' Inn. The Solicitor-General thought the grant 'did not prohibit any man of anything before known or used within this Realm, whereby any occupation or liberty of art was infringed.' Serjeant Wray said if privilege were not given by the Prince in such cases no new arts would be brought in. Plowden thought the Prince could not take from the inheritor of the soil any part of his inheritance, known or unknown, nor forbid him the use of it, 'affirming calamine to be his own if it were in his land, and to dispose of as pleaseth him.'<sup>6</sup>

Stringer prints the original Constitutions made by the company.<sup>7</sup> There are set forms of oath for the different officers and members, provisions for punctual attendance at meetings to prevent 'slack consultation,'<sup>8</sup> and for decent order during speeches; these, like parts of the charter, seem to follow earlier precedents in corporateness. There was also power to assess members, and power for the officers to borrow in emergency upon bond sealed with the common seal.<sup>9</sup> No one was to alienate his share or part-share 'without knowledge thereof given to the company at the next court' on pain of cumulative fines; 'and the knowledge of such alienation, to be given in manner aforesaid, shall be entered in the register book of the Acts of the said Society among the Acts by them to be done or made at their said Courts or Assemblies.' No one was to sue a fellow-member in debt or trespass; but such matters were to be submitted to the judgment of the Society

<sup>1</sup> *Ibid.*, xlv. 45.

<sup>2</sup> *Ibid.*, xl. 17. See *Victoria History of County of Somerset*, II., pp. 389-391.

<sup>3</sup> See *S. P. Dom.*, Eliz., xli. 42.

<sup>4</sup> See patent printed *post*, p. 16. The material differences from the Mines Royal grant are the absence of details as to shareholding qualifications for membership and the presence of a clause saving workmen from jury service, etc.

<sup>5</sup> Stringer contended in 1713 (*Opera Mineralia*, p. 255) that 'all mineral earths and metals, salts, and whatsoever is subterranean is the prerogative royal.' Cf. the controversy over the Forest of Dean

mines, which the Stuart Kings claimed the right to grant.

<sup>6</sup> *S. P. Dom.*, Eliz., xlv. 35.

<sup>7</sup> *Opera Mineralia*, p. 73. The fully assembled corporation, 'with humble prayer and hope of God's grace and favour herein, at this full Court, with full, whole and free assent, do order, enact, and reestablish to remain for law for ever...' Cf. *ante*, p. xx. (2).

<sup>8</sup> Cf. the words in the Merchant Adventurers' charter of 1506, *post*, p. 86.

<sup>9</sup> Loans not to exceed £424 (£13 6s. 8d. per share); to be explained to the whole company at a meeting within fifteen days; and to be repaid in a year.

in full court. Not only the spirit but the very words of this last ordinance bewray its descent from the ancient gilds.<sup>1</sup>

In the year of the incorporation the books were audited,<sup>2</sup> and a further 'assessment' of £40 was called up on each share.<sup>3</sup> In its wire manufacture at Tintern the company was aided by a statutory prohibition of the importing of wool-cards,<sup>4</sup> but its exclusive rights of manufacture were infringed.<sup>5</sup> Its wire process was one of water-power; before its introduction 'English wire was made and drawn by man's strength.' A certain Steare, who had works at Chilworth in Surrey, having enticed away some of the Tintern workers, was able to instal, first, horse-power, and afterwards water-power. Being a hundred miles nearer London, he made a great saving in carriage. Naturally the Mineral and Battery Works protested against such competition. If they met it by moving to the neighbourhood of London, they would decay the thousands of their craftsmen in Tintern and the west, and would breed great scarcity of timber and coals about London. The Exchequer decided against the infringer, but directed the company to take over him and his plant.<sup>6</sup>

A further charter was issued to the company in 1584<sup>7</sup> to encourage the work and 'to supply and reform some of the defects' of the first grant. It forbids digging in houses or enclosures,<sup>8</sup> provides a tribunal for compensation to owners, and prohibits both working in calamine stone and the imitating of any engine or tool 'which hath been or shall be first devised by the patentees.' If the privilege of working is to be extended in Ireland, the company is to have a preference. If the whole grant is resumed into the royal hands, the company is to be compensated, while it is to have the first claim if the Crown be afterwards disposed to grant the privileges afresh. These provisions are faithfully reproduced in the charter granted upon the

<sup>1</sup> See example, Toulmin Smith, *Gilds*, p. 101; cf. pp. 21, 55, 96, 98, 115, 451. Lawyers' jealousy is said to have been one cause of the ultimate interference by statute (15 H. VI., c. 6 (by-laws to be supervised), renewed by 19 H. VII. c. 7, *post*, p. 127 (1), which also forbade restraint of suits in the King's Courts. See Ashley, *Economic History*, i. pt. 2, p. 159: cf. 12 H. VII., c. 6, *post*, p. 84).

<sup>2</sup> *S. P. Dom.*, Eliz., xlvii. 10.

<sup>3</sup> *Ibid.*, xlvii. 11.

<sup>4</sup> 39 Eliz., c. 14. See 14 Car. II., c. 19; and proclamation (*Patent Rolls*, 6 Car. I., pt. xi. *dors.*) forbidding import of iron wire.

<sup>5</sup> The question of prior use of a certain sieve in Derbyshire was cited in *Darcy v. Allen*, Noy, at p. 183. John Brode was restrained from calamine working in 1597, unless he either obtained the company's licence or proved its patent void (see *Acts of the Privy Council*, 1597, p. 235).

<sup>6</sup> Stringer prints some documents of the case, *Opera Mineralia*, p. 192. See also Price, *English Patents of Monopoly*, pp. 56-7. See clause against enticing away workmen, *post*, p. 227.

<sup>7</sup> *Patent Rolls*, 26 Eliz., pt. iv. See *post*, pp. 45-50 and footnotes.

<sup>8</sup> Cf. the Stannaries restriction in 1632 (Lewis, *Stannaries*, p. 250).



accession of King James.<sup>1</sup> The calamine privilege was worked chiefly by lessees.<sup>2</sup> Lydsey, who farmed it in 1635, helped to set up the Pinmakers' Company, and promised the King £500 a year for the right of supplying them with 200 tons of wire.<sup>3</sup> This alliance, however, profited neither the wire-workers nor the pinners nor the public.

In a petition addressed to Queen Anne the members of the company state that their patent had been exercised until the times of rebellion and usurpation and that their efforts were renewed after the Restoration of Charles II.<sup>4</sup> Difficulty with infringers seems to have caused another petition in 1709 for confirmation of their charter.<sup>5</sup> Led by Moses Stringer, 'Her Majesty's Chymist,' for whose 'several medicinal discoveries in chymistry' they prayed an exclusive patent,<sup>6</sup> the company undertook, if allowed to 'cultivate all lands and waste grounds' not granted to anyone else, that they would 'take care of and settle the poor Palatine Refugees immediately and set them to work.' Stringer's book, published in 1713, shows extensive developments in contemplation, towards which the public were asked to subscribe £20,000.<sup>7</sup> He sets out to glorify the wide powers of the Elizabethan prerogative, and the consequently wide powers conferred by her on the Mines Royal and Mineral and Battery Works Societies. Such claims had plainly been disturbed by the statute which had recently ordained that mines of copper, tin, iron and lead—even if gold and silver were taken out of them—were not Mines Royal.<sup>8</sup> He writes bitterly of the other companies lately incorporated, especially of the Mine Adventurers.<sup>9</sup>

The singular resurrection of these Elizabethan mining corporations for the purpose of insurance is matter for a later page.<sup>10</sup> Among

<sup>1</sup> See patent printed *post*, p. 43. There is an attempt (at p. 50) to restrain actions in the Courts against the company. The protection and compensation to land-owners may be compared with that given under contemporary statutes for water supply, see *post*, p. cxxii. (6).

<sup>2</sup> See Price, p. 59; and *S. P. Dom.*, Car. I., cccxxi., 149.

<sup>3</sup> *Patent Rolls*, 11 Car. I., pt. i.: see *ibid.*, pt. xxx. (Pinners' charter), and account in *S. P. Dom.*, Car. I., cccxxxviii. 53.

<sup>4</sup> *Petition Entry Books*, 241, p. 478. They then found one John Tripp working calamine stone about Bristol. Summoned to a Court in 1662, he pleaded ignorance of the patent, and was willing to take out a licence from the company. But later his son, John Tripp, 'usurped and engrossed the dealing in calamine stone' and refused to recognise the company or attend

upon their summons.

<sup>5</sup> *Ibid.*, 243, p. 314.

<sup>6</sup> They also ask that he have the office of Mineralmaster-General.

<sup>7</sup> *Opera Mineralia*, p. x. The united companies are there stated to be owed £120,000 for rents and at least £460,000 for trespasses and infringements. New workings are to be encouraged, samples of ore to be sent (carriage paid) to the 'Mineral Office General in Blackfriars.'

<sup>8</sup> 1 W. & M., c.30. See also 5 W. & M., c. 6, as to rates of royalties on ore.

<sup>9</sup> See *post*, p. civ.

<sup>10</sup> *Post*, pp. cxx., cxxx. Francis, *Smelting of Copper in Swansea District*, p. 57, says the two corporations continued under one management till 1852, when certain copper companies purchased their shares and allowed their powers to lapse.

their contemporaries at the close of the seventeenth century were certain companies incorporated by grants which seem to show that a common form was being reached. In the case of the Ironmakers<sup>1</sup> and the Lead-smelters<sup>2</sup> the similarity is obvious.

In 1691 a petition of Sir Joseph Herne and others stated that there were mines unworked for want of 'skilful artists,' much money being consequently remitted abroad 'which might be saved and preserved if the Petitioners met with encouragement.' They said they had discovered new furnaces and engines, and they offered to supply the Crown with cast ordnance 'much finer and cheaper than heretofore.'<sup>3</sup> A charter was soon granted to them as the *Governor and Company of Copper Miners in England*,<sup>4</sup> and the corporate privileges were extended subsequently to include both Ireland<sup>5</sup> and New England.<sup>6</sup> In the first half-year of its life the company asked that, in consideration of an annual payment of £2,000, it might be allowed to recoup some of its expenses by a three years' grant of making and vending farthings, halfpence, and pence of copper.<sup>7</sup> In 1692 it further asked for an amendment of its charter. 'To prevent all obstructions and distinctions between working of copper mines and purifying and refining the ore, they pray to have full power and authority granted to them for working, digging and searching for copper mines as a body corporate within the limits of their charter they already have, since the digging of the mines is the essential part of their charter, the ore they dig being what they purify.'<sup>8</sup> In 1709 another amendment was desired, the giving of notices in writing to shareholders (pursuant to the charter) having become 'altogether impracticable, many of them being so dispersed in several parts that the petitioners know not where to find them.'<sup>9</sup> Her Majesty signed a warrant for this variation, but the company alleged that by mistake a clause was inserted requiring a surrender of their former patent, and asked for a confirmation without surrender.<sup>10</sup> A second warrant was signed accordingly in 1711.<sup>11</sup> In 1720 the company, as Dr. Scott has shown,<sup>12</sup> allied itself with certain other copper producers, who thus obtained the benefit of working under its charter.<sup>13</sup>

<sup>1</sup> See *post*, p. cii., and patent printed at p. 228.

<sup>2</sup> See *post*, p. cii.; compare the patents printed together at p. 228.

<sup>3</sup> *Petition Entry Books*, 235, p. 149.

<sup>4</sup> Printed *post*, pp. 216-8.

<sup>5</sup> See patent printed *post*, p. 219.

<sup>6</sup> *Patent Rolls*, 3 W. & M., pt. viii. (similar in form).

<sup>7</sup> *Petition Entry Books*, 235, p. 219.

<sup>8</sup> *Ibid.*, p. 362.

<sup>9</sup> *Ibid.*, 243, p. 351.

<sup>10</sup> *Ibid.*, 245, p. 103.

<sup>11</sup> See *post*, p. 218, footnote.

<sup>12</sup> See his vol. ii., pp. 434-5.

<sup>13</sup> These new allies included certain proprietors of copper mills on the Wandle, in Surrey who had themselves asked for incorporation because they could not succeed as separate traders, while, should they 'enter into co-partnership with each other, they would thereby be liable to many dangerous consequences in case some or one of them should happen to fail' (*Petition Entry Books*, 245, p. 522). Cf. *ante*, p. xvii.



There was also a corporation of *Copper Miners in the Principality of Wales*, consisting of certain London merchants interested in lead and copper mines in Flint and elsewhere. Its grant<sup>1</sup> excludes it from working to the prejudice of the English Copper Miners and other English bodies corporate. Both the English and Welsh copper companies were attacked in 1720 by writs of *scire facias*, but the proceedings ended in a *nolle prosequi*.<sup>2</sup> The South Sea Company, rebuking the sin of speculation, sought to prick contemporary bubbles, only to find that the consequent fall in their shares helped to deflate its own.

Lead mining is represented by the grant to Constantine Vernatti, Thomas Addison and others, in 1692.<sup>3</sup> They claimed to have spent several thousand pounds in perfecting a very useful invention not previously put in practice, for smelting down lead ore with pit and sea coal, and for making sheet lead and bullets.<sup>4</sup> Their charter, as has been mentioned, was virtually duplicated for the Iron-makers.<sup>5</sup> Addison was a member of this body also; he had asked for and obtained a patent for 'smelting iron ore, iron stone, slags, cinders and other material' with the aid of coal, and making thereof good merchantable bar iron and bullets.<sup>6</sup> Later, he asked for incorporation for himself and his partners, repeating the argument that money was hard to raise for a mere partnership 'because, in case of the bankruptcy of any of the partners, the stock in partnership would be liable to be seized,' and alleging also that 'such an undertaking is not to be carried on but under rules and orders which cannot be established unless by your royal authority.'<sup>7</sup> The Attorney-General reported favourably, suggesting a clause for determination, to 'prevent their making any ill use of Your Majesty's favour';<sup>8</sup> and the charter was issued.

The abundance of mines ('especially of lead') unworked in England and Wales was urged in the petition of William Campion, Thomas Crud and others, in 1692. 'Many owners of land where mines are cannot'—they said—'or dare not themselves undertake the same.' They asked for incorporation 'to the intent only to enable them to

<sup>1</sup> See patent printed *post*, pp. 241-3.

<sup>2</sup> See documents in *Petty Bag, Scire facias* proceedings, 54 and 55. Nine years' non-user is alleged against the English, twenty against the Welsh Company. Francis prints the chairman's speech at a subsequent meeting of the latter body in 1722, *Smelting of Copper, etc.*, pp. 170-1. See also *Browne v. Gibbins*, 5 Bro. P. C. 491. See precedent writ for repeal of the English Company's patent on the ground of non-feasance, Lill., *Entr.*, p. 419.

<sup>3</sup> See patent printed *post*, pp. 228-230.

<sup>4</sup> *Petition Entry Books*, 235, p. 249.

<sup>5</sup> See patent printed in interlineated italics, *post*, pp. 228-230.

<sup>6</sup> *Petition Entry Books*, 235, p. 202: *Patent Rolls*, 4 W. & M., pt. 1. For previous efforts with pit-coal see Lewis, *Stannaries*, pp. 24-25.

<sup>7</sup> *Petition Entry Books*, 235, p. 423.

<sup>8</sup> *Ibid.*, p. 427.

act safely by a joint stock,' disclaiming the wish to interfere with any charter or to prevent others from mining, and offering to pay to the Crown a larger proportion of profit than ever was done before.<sup>1</sup> Incorporated as the *Governor and Company for digging and working of mines and for buying and refining ore by a joint stock*, they were expressly precluded from working or smelting copper and from obstructing other miners; it was further ordered that, in case any of their mines proved to contain such quantities of silver as to be accounted Mines Royal, the company should come to terms with the Mines Royal Society or the company of the Mineral and Battery Works.<sup>2</sup>

A lead mine in Wales which contained so much silver as to attract the attention of the Mines Royal Society was being worked by Sir Carbery Price in 1690. He successfully withstood an attempt to make him compound with the society, and the litigation led to legislation which brought little comfort to the Elizabethan corporation. Not only was the old definition of Mines Royal by this time narrowed,<sup>3</sup> but it was made possible for a landowner to work ground containing the precious metals upon direct composition with the Crown alone. Price's undertaking passed into the hands of Sir Humphrey Mackworth, who indulged his financial gifts. Under an Indenture of 1698<sup>4</sup> he proposed to raise £125,000 by selling 25,000 lottery tickets at £5 each. Of this sum £20,000 was to be a permanent stock for working the mines, £80,160 was to satisfy the former partners, and the balance was to pay the debts of the old undertaking and the expense of floating the new 'at the discretion of the said Sir Humphrey Mackworth without rendering any account for the same.' Incidentally sundry charities were to benefit, in memory of his deliverance from peril on the sea. Making contract supply the lack of incorporation, he 'condescended to give the partners a new constitution extracted out of the charters and constitutions of the best companies in London.'<sup>5</sup> In 1704 the company made petition for a charter. They recited that they had established a constitution 'with transfer books and other rules and orders' as expressed in their deed of settlement, 'by which means they have preserved a good agreement among themselves,' and that they employed several ships, — 'all which tends to the advantage of the nation and is in no way prejudicial to any person in particular.' 'To the end therefore that the Petitioners and their chief officers may have an opportunity to express their loyalty by taking the usual oath and giving the utmost demonstration of their fidelity to your Government,

<sup>1</sup> *Petition Entry Books*, 235, pp. 170–1.

<sup>2</sup> See patent printed *post*, pp. 238–241.

<sup>3</sup> See *ante*, pp. xciv., c.

<sup>4</sup> See *ante*, p. xix. (8).

<sup>5</sup> See *The Case of the Mine Adventurers*, Brit. Museum, 522 m. 12–23, and the illustrated prospectus, 522 m. 12–37.



and that they may have the honour to act under Her Majesty's royal authority, they most humbly pray for letters patent of incorporation.' <sup>1</sup> The charter subsequently granted to them as *The Mine Adventurers of England* <sup>2</sup> provided for the division of the concern into six thousand and twelve shares. No act of the court or assembly was to be valid unless persons were present who held fifteen hundred ; no contracts exceeding in value the sum of £10,000 were to be valid ; and contracts which either exceeded £5000 or were not to be performed within a year required to be approved and subscribed by the Governor, Deputy Governor, and twelve Directors, or seven of them at the least. <sup>3</sup> The company was to work without prejudicing the rights of any persons or bodies politic in silver or other mines or in making copper, lead, tin, or any other metal. The charter makes an interesting effort to secure for the Mackworth family the future governorship. <sup>4</sup> Its provisions are influenced by those of the previous deed enrolled in Chancery.

When incorporated, the Mine Adventurers had to complain of the hostile and interested behaviour of the local Justices. Workmen were impressed, and even 'taken forcibly out of their beds'; whereupon 'above a hundred smelters, refiners and colliers immediately ran away, fearing for the future.' <sup>5</sup> Even more disastrous were the scandals of management in which (as Moses Stringer suggested <sup>6</sup>) Mackworth, Waller, Shiers, and others were implicated, the share-rigging, and the subsidiary project of the Mine Adventurers' Bank, which could not survive the creation of the monopoly of the Bank of England. <sup>7</sup> Parliamentary inquiry revealed that Courts had been held, orders made, and important business transacted, without the presence of the necessary quorum. It was resolved that Mackworth, Shiers the Secretary, and Dykes the Treasurer were guilty of many notorious and scandalous frauds and indirect practices in confederation, 'to the wrong and oppression of the proprietors and creditors of the Company.' <sup>8</sup>

## XIII

Some of the great trading companies included (as we have seen <sup>9</sup>) fishing among their objects. Others encouraged the fisherman indirectly by excepting him from the scope of their exclusive trading

<sup>1</sup> *Petition Entry Books*, 240, p. 140.

<sup>2</sup> See patent printed *post*, pp. 243-8.

<sup>3</sup> The Directors' oath is set out in full; see *post*, p. 246.

<sup>4</sup> See *post*, pp. 244-5.

<sup>5</sup> *Petition Entry Books*, 241, p. 140 (see p. 137).

<sup>6</sup> See *ante*, p. c. The various contem-

porary pamphlets give a very full account, which is summarised by Dr. Scott, vol. ii., pp. 442-458.

<sup>7</sup> See *post*, p. cxvi.

<sup>8</sup> *Commons' Journals*, xvi., pp. 358-368, 391.

<sup>9</sup> See examples, *ante*, pp. xxxii., lxxxix., xc., etc.

powers.<sup>1</sup> The value of fisheries, as providing food, employment, and a 'nursery for seamen,' was clear.

The keen personal interest of Charles I.<sup>2</sup> led him to set up in 1632 a body (part Board of Fisheries, part Regulated Company, and part Joint Stock) by the name of *Concilium et communitas piscationis Domini Magne Britannie et Hibernie*.<sup>3</sup> The Lord Treasurer (Weston), Arundel, and Pembroke were among the *conciliarii*, and a number of persons were named *primi et moderni socii de communitate*. The council was to be half English and half Scotch.<sup>4</sup> There were proclamations for the regulation of fishing (prohibiting trawls),<sup>5</sup> for the better observance of the old laws as to fish diet,<sup>6</sup> and for the restriction of foreign fishermen on our coasts.<sup>7</sup> The various groups of fishermen which appear to have been formed<sup>8</sup> found the 'Dunkirkers' a thorn in their sides.<sup>9</sup>

After the Restoration Charles II. appointed the Earl of Clarendon and others as a Fishery Council, of which he vouchsafed to be Protector.<sup>10</sup> To some extent the previous scheme was followed. There was power to make laws and punish offenders, and to appoint judges to decide local disputes. Fishermen were to be free from all pleas or complaints while fishing, and to be exempt from jury service and from the office of constable or tithingman, and (with their servants, boats and gear) from arrest or pressing. A lottery (like the Virginia lottery of 1612) was granted, with the benefit of collections in the churches. Monies thus

<sup>1</sup> See Raleigh's grant, Alexander's Canada grant, the charters to the companies of Newfoundland (*post*, p. 53), Massachusetts Bay, Maine, Connecticut, etc., and the Elizabethan Merchant Adventurers' statute (*ante*, p. xxxi.).

<sup>2</sup> See *S. P. Dom.*, Car. I., cciii. 54.

<sup>3</sup> *S. P. Dom.*, Car. I., ccxxi. 1 (see Commission, *Patent Rolls*, 6 Car. I., pt. vi. *dors.*). To some extent the scheme follows a draft made by Coke (*S. P. Dom.*, Car. I., ccxxix. 71, and see 73, and cvi. 46) for a corporation of 'Adventurers of Fishing.'

<sup>4</sup> A Scotch Act of 1630 had taken steps towards setting up a fishing company in each chief town, with a local court of assistants corresponding with a central council (*Acts of Parliament of Scotland*, v., p. 221-2). Capt. Mason advised, as to the Lewis Fishery, that the members should be made burgesses of the new borough of Stornoway (to be capable of carrying traffic thither as well as fishing), with power to meet, vote and increase their stock (*S. P. Dom.*,

Car. I., ccxxix. 95: see the blank form of subscription, *ibid.*, 96: £11,750 was apparently subscribed, ccxxxi. 15).

<sup>5</sup> Rymer, xix. 286.

<sup>6</sup> *Ibid.*, 329 (reciting 2 & 3 Ed. VI., c. 19, 5 Eliz., c. 5, etc.), and 376.

<sup>7</sup> Rymer, xx. 15. The King's title to acknowledgment and payment in respect of fishing round the coasts is much discussed in *S. P. Dom.*, Car. I., ccv. 92 (compare Evelyn's papers, *Hist. MSS. Comm. Rep. Pepys MSS.*) 66, p. 267).

<sup>8</sup> For example, the 'Earl of Warwick and his Associates' (*S. P. Dom.*, Car. I., cccxxix. 64). See Scott, ii., pp. 369-371, as to other groups.

<sup>9</sup> See petition of Earl of Pembroke, *S. P. Dom.*, Car. I., cccxxviii. 65, cccxxiv. 68 (whereupon a standing lottery was granted). For details of adventures, debts and calls, see *ibid.*, cccxxv. 43 (1), and Scott, ii., pp. 364-8.

<sup>10</sup> *Patent Rolls*, 13 Car. II., pt. xiii. *dors.* (see *ibid.*, the commission which is revoked, *post*, pp. 202-3).



raised were to be devoted towards wharves, docks and storehouses. For seven years all fish from the Baltic Seas, Denmark, Norway and France need pay no customs inward or outward, while a duty was set on pickled herrings imported by the Flemings and others. Finally, in case of war, the fishermen were to be protected and have convoys.

Subsequently subscriptions were invited towards a fishery company, upon terms which permitted the withdrawal of capital at the end of three years upon six months' notice.<sup>1</sup> The King was prepared to stake £9,000, but not to pay till other sums were subscribed, it being unworthy of His Majesty to begin a thing which could not hopefully be prosecuted.<sup>2</sup> That sum would have built ten busses,<sup>3</sup> but it was not paid, other adventurers being backward. In 1663 the Council of Trade resolved to create a corporation.<sup>4</sup> A charter was accordingly granted to the *Governor and Company of the Royal Fishing of Great Britain and Ireland*, with the privilege of a lottery and an unusual clause giving the right of access to records for purposes of information.<sup>5</sup>

Pepys was named a member of the company, and took a prominent part in its administration. He frequently complains of nothing being done, and he criticises the loose methods of collecting money.<sup>6</sup> His report on the lotteries gave him great satisfaction,<sup>7</sup> but the lotteries failed to establish the fishing trade. The company put forward a petition for the sole power of coining and issuing farthings.<sup>8</sup> Another proposal required the aid of one-fifth of the excise on salt;<sup>9</sup> another depended on a farm of the tobacco duties;<sup>10</sup> another was bound up with a projected banking business.<sup>11</sup>

In 1677 a second incorporation took place.<sup>12</sup> Its grant speaks of the trade having been managed for three years previously 'with some

<sup>1</sup> *S. P. Dom.*, Car. II., xli. 20.

<sup>2</sup> *Ibid.*, lix. 7.

<sup>3</sup> *Ibid.*, lix. 7 (2).

<sup>4</sup> *Ibid.*, lxxxvi. 43. The King endeavoured to secure the secretaryship for George Duke.

<sup>5</sup> See the patent printed *post*, pp. 182-6.

<sup>6</sup> *Diary* (Ed. Wheatley, 1903), iv., pp. 263, 290, 369. See *post*, p. 184 (2).

<sup>7</sup> *Diary*, iv., pp. 274, 280.

<sup>8</sup> *S. P. Dom.*, Car. II., clxxxviii. 24, 24 (1) (the company taking 5s. out of 20s.), ccli. 162: see Pepys, *Diary*, iii., p. 330, iv., pp. 242, 298.

<sup>9</sup> *S. P. Dom.* (Add.), Car. II., cclxxx. A, 257.

<sup>10</sup> *S. P. Dom.*, Car. II., cccxvi. 251 (lacking a sufficient stock and having

most of their boats taken by the French in 1676, the company ('in a manner dissolved') asked for the reversion of Holy Island, offering £4000 more than the average tobacco revenue of the past nine years). The proposal, introduced by Col. Deane (*ibid.*, 250), is endorsed 'not thought fit to be allowed.'

<sup>11</sup> See Scott, ii., p. 374.

<sup>12</sup> See patent printed *post*, p. 196. For another proposal offering to employ 30,000 sailors at an outlay of £600,000 to bring in a revenue of nearly three millions, see *S. P. Dom.*, Car. II., cccxcii. 109. See a petition for incorporation in 1675-6 by the Earl of Suffolk and others, *Petition Entry Books*, 46, p. 93.

effect' by the patentees. Some of the provisions (*e.g.*, those giving immunity from jury service, and power to erect storehouses and to use the waste grounds adjoining public rivers and seas) recall earlier models.<sup>1</sup> A promise of twenty pounds yearly to the company, for every dogger then owned or within seven years to be built by the company,<sup>2</sup> begins the practice of herring-buss subsidies which afterwards served Adam Smith as an illustration.

The company, which in 1696 was said to have suffered from the 'destructive shuffling of stock-jobbing,'<sup>3</sup> presented a petition to Parliament in 1698 in which it recited its patent and its 'great expense to regain the said trade.' About two years since, it was said, books had been opened for subscription for a stock of £800,000, and a considerable sum was subscribed; 'but most of the subscribers are unwilling to perform their subscription unless established by Parliament.'<sup>4</sup> Some account of their operations appears from the Parliamentary report of 1720, when a number of huge fishery projects had been examined.<sup>5</sup> Their secretary recounted the stocks lost by misfortunes and accidents, including one of £10,000 raised in 1694; 'and that then they borrowed money upon bottomry, part of which was repaid by selling the doggers and other the effects of the company,' and as the Government were then giving fourteen per cent. for money, no further sums could be raised. He could not pretend that the Company had acted as a corporation for several years, or that they had for seven years met every year, but a subscription for £1,200,000 had been opened in 1719, and a petition had been addressed to His Majesty.

To this sketch of fishing companies may be added the little known corporation of Cumberland Pearl-fishers. Upon the petition of Thomas

<sup>1</sup> Coke's draft (see *ante*, p. cv. (3)) and the Commissions for a Fishery Council. The charter seems developed from a draft in *S. P. Dom.*, Car. II., xcvi. 67), in which the following additional clauses appear:—promise of £50 yearly out of the revenue 'towards the maintenance of an orthodox minister for ever in and upon such place where the company shall settle the fishery': convoys in time of war: 21 years' freedom from customs on white herrings, cod and ling, to be landed in some port or haven in England, 'there to be repacked and marked with the company's mark, viewed by the customs officers and sworn to by the ship's master' (*ibid.*, 68).

<sup>2</sup> See *post*, p. 201. The sum of £200 had been suggested (*S. P. Dom.*, Car. II., xcvi.

68): the King had thought of that sum in 1662 (Pepys, *Diary*, ii., pp. 403–4).

<sup>3</sup> *Commons' Journals*, xi. p. 595.

<sup>4</sup> *Ibid.*, xii. pp. 518–9. The petition, including a request for exemption from salt duty, was referred to committees in 1700 and 1701 (*ibid.*, xiii., pp. 276, 476).

<sup>5</sup> *Ibid.*, xix. p. 341. There was the 'Grand Fishery' (£1,500,000 subscription), the 'Royal Fishery of England' (£1,200,000), the 'British Fishery' (£3,000,000, and another of £1,500,000), the 'Greenland Whale Fishery' (£1,500,000), and the 'Great Britain and Ireland Fishery' (£10,000,000: see also *ibid.*, p. 351): see the findings of the Committee upon these projects, *ibid.*, pp. 343–4; and *post*, p. cxxx.



Patrickson in 1692<sup>1</sup> the Attorney-General observed that, if the rivers and waters of Cumberland were in fact so plentifully stocked with fish as was suggested, incorporation might be of benefit both to the undertakers and (by providing employment) to the public.<sup>2</sup> A charter was accordingly granted, though the life of the company was therein limited to fourteen years.<sup>3</sup>

## XIV

The industrial corporations created in the latter part of the seventeenth century included important enterprises for the manufacture of white paper, linen, tapestry and silk. To some extent their privileges were fortified by the restriction of outsiders. Indirectly they profited by the French Wars. Though their story shows rivalry with France, it also shows English indebtedness to the skill of Frenchmen.

In 1686 a company was formed to work John Briscoe's patent<sup>4</sup> for making writing, printing and other paper 'as good and as white as French or Dutch paper.' In the grant to the *Governor and Company of the White Paper Makers in England*,<sup>5</sup> it was provided that the patentees of any other process of paper manufacture might, if they had actually made paper under their patents, be admitted upon certain payments.<sup>6</sup> All other persons and corporations were forbidden to make 'writing and printing paper either in the waterleaf or otherwise' or to imitate the company's process.<sup>7</sup> The King's further promise to support the company was made good by a proclamation issued in the following year.<sup>8</sup> A proposal to increase the capital of the undertaking (by further shares of fifty pounds each) involved an appeal to Parliament for statutory confirmation of the charter. This course was opposed by William Sutton, who worked mills at Byfleet under a patent issued in 1682 to George Hagar;<sup>9</sup> by the Corporation of Chipping Wycombe, who had eight mills, employing fifty families; by the Dean and Canons of Windsor, who alleged that the

<sup>1</sup> *Petition Entry Books*, 235, p. 221. According to Nicolson and Burn (*History, of Westmorland and Cumberland* (1777), II., p. 24), the inhabitants gathered pearls at low water and sold them to jewellers who made a good profit. It was said that Patrickson got £800 from London jewellers for pearls thus gathered. See *post*, p. 223 (3).

<sup>2</sup> *Petition Entry Books*, 235, p. 228.

<sup>3</sup> See patent printed *post*, pp. 223-5.

<sup>4</sup> *Patent Rolls*, 1 Jac. II., pt. iv.

<sup>5</sup> See patent printed *post*, pp. 203-7.

<sup>6</sup> See *post*, p. 205. An earlier patent had been granted to Eustace Burneby for white paper (*Patent Rolls*, 26 Car. II., pt. xi.; and see 23 Car. II., pt. iv.).

<sup>7</sup> See *post*, p. 206. Theodore Janssen was fined £500 by the King's Bench on prosecution by the Company for injury done them. They petitioned for this sum (*Petition Entry Books*, 71, p. 351).

<sup>8</sup> *Patent Rolls*, 3 Jac. II., pt. vii. dors.

<sup>9</sup> *Patent Rolls*, 34 Car. II., pt. i.

injury to their tenants would cause their Church to lose £100 a year ; and by the Ancient Papermakers, who petitioned against the bill as ' a plain monopoly and void in the law.'<sup>1</sup> Sutton was won over by an offer to take his mills at an agreed rent, and a promise that, within seven days of the passing of the Act, he should be admitted to the company and be given four of the original four hundred shares.<sup>2</sup> The Ancient Papermakers were roundly accused of being inspired by France in their opposition.<sup>3</sup> The company being forbidden to make such paper as was usually sold for less than four shillings a ream, other opponents were conciliated, and the bill became law.<sup>4</sup>

The apparent success of the manufacture was checked by a subsequent Act, which imposed a duty of £20 per cent. on the makers of paper made in England ;<sup>5</sup> and its decline was in 1698 attributed to ' the perversion of the stock subscribed for that purpose into a stock-jobbing trade ' and to ' the want of white rags.'<sup>6</sup>

The *King and Queen's Corporation for the Linen Manufacture in England*<sup>7</sup> was founded in 1690 to introduce from France the ' art or mystery of preparing of hemp and flax ' for making various fabrics. Its charter permitted the admission of persons who held and worked patents for similar manufactures or for spinning machinery, and preserved pre-existing rights of manufacture or sale of hemp and flax. According to a remarkable petition<sup>8</sup> made by Craven Howard, the Governor, who urged that the encouragement of the company would ' much contribute to the lessening of the power of France,' most of the

<sup>1</sup> See *Lords' Journals*, xiv., p. 499: *Report on House of Lords MSS.* 1690-1 (13th Rep.), pp. 74-6.

<sup>2</sup> For details, see *Swynock v. Sutton*, *ibid.*, pp. 435-6.

<sup>3</sup> *Ibid.*, p. 75.

<sup>4</sup> 2 W. & M. (for details see Scott, iii., pp. 66-7).

<sup>5</sup> 8 & 9 W. III., c. 7. s. 1. Imported paper was to pay £25 per cent. In 1699 it was proposed to increase this to £30, but Lords' and Commons disagreed (see *Lords' Journals*, xvi. pp. 461-3; *Commons' Journals*, xii., pp. 647-8).

<sup>6</sup> Trade Commissioners' Report (recommending higher duties on imported paper), *Commons' Journals*, xii., p. 435. (Export of rags had been prohibited by the company's Act.) Other paper patents of this period include Gifford's (for blue, purple, and coloured paper; *Patent Rolls*, 3 W. & M., pt. viii., and 4 W. & M., pt. x.,

following a petition (*Petition Entry Books*, 236, p. 267) that by the neglect of his agents the words ' beautifying, figuring, imprinting and embellishing ' had been omitted from his grant), and Hutton's (*P. R.* 4 W. & M., pt. iii.: see *Petition Entry Books*, 236, p. 283). See also Peter Gaultier's petition (*ibid.*, p. 285), Neale's (235, p. 400) for white, brown, and blue paper in England and Ireland, and Patrick Gordon's for blue, purple, and other papers in Ireland (235, p. 232: *H. O. Warrant Book*, vi., p. 260). For Irish and Channel Islands companies, see Scott, iii., pp. 71-2. A partnership (see *ibid.*, p. 72) seems to have worked Bayley's grants, *P. R.* 4 W. & M., pt. iii. (for glazed and printed hangings), and *P. R.* 4 W. & M., pt. vii. (for printing all sorts of paper).

<sup>7</sup> See patent printed post, pp. 212-6.

<sup>8</sup> *Petition Entry Books*, 235, p. 146.



original capital was spent in buying a former patent<sup>1</sup> and in providing workhouses and warehouses. 'And because,' he continued, 'an undertaking of such apparent advantage as this manufacture will be, may not sink for want of reasonable support during its minority,' he prayed a grant (for the use of the corporation) of the one-fifth royalty reserved by the King in a wreck patent to Philip Ford,<sup>2</sup> 'of which four years are yet to come,' along with a grant of all wrecks over which Ford did not exercise his rights, and a ninety-nine years privilege of wrecks covered by Ford's patent (at a rent of twenty nobles yearly) and of all wrecks on the north of Cornwall (at a rent of five nobles yearly). This singular proposal for the salvage of a linen flotation seems not to have been adopted. The formation of a subsidiary company for Ireland (in which members of the English company were to be entitled to one share for every four shares of their English holding) increased the value of the English shares for a time.<sup>3</sup> But by 1698 it was being said that the English corporation, though it still subsisted, had no looms; 'what linens they sell at their sales are only such as they buy of weavers in Yorkshire, Durham, and Lancashire.'<sup>4</sup>

The paper and linen industries were cited in Parliament as instances of the perversion of enterprise through 'the pernicious art of stockjobbing,' which sacrificed a trade to the private profit of the first projectors. 'The privileges granted to them have commonly been made no other use of by the first procurers and subscribers but to sell again with advantage to ignorant men drawn in by the reputation, falsely raised and artfully spread, concerning the thriving state of their stock. Thus the first undertakers, getting quit of the company by selling their shares for much more than they are really worth to men allured by the noise of great profit, the management of that trade and stock comes to fall into unskilful hands, whereby the manufactures be in a worse condition than if they were perfectly left free, and unassisted with such laws or patents.'<sup>5</sup>

Tapestry-making was conducted at Mortlake by Sir Francis Crane during the reigns of James and Charles I.<sup>6</sup> The industry was decayed

<sup>1</sup> Probably that of Charles Howard (*Patent Rolls*, 30 Car. II., pt. vi.), whose support seems to have been won by an offer of twenty £10 shares in the company (see Scott, iii., p. 91). Another linen enterprise had been proposed in 1687 by Burneby (see *ante*, p. cviii. (6)), who sought a linen patent in much the same words as that of the corporation (*Petition Entry Books*, 71, p. 317).

<sup>2</sup> *Patent Rolls*, 4 Jac. II. pt. xi.

<sup>3</sup> For the 'King's and Queen's Corporation for the Linen Manufacture in Ireland,'

and for other Irish linen companies, see Scott, iii., pp. 98-104.

<sup>4</sup> *Commons' Journals*, xii., p. 435.

<sup>5</sup> *Commons' Journals*, xi., p. 595.

<sup>6</sup> Crane is stated in 1619 to have been given the making of three baronets to aid the industry, *S. P. Dom.*, Jac. I., cx. 26; see Rymer, xviii., p. 60, for a grant in 1625: 140 workmen in 1636 petitioned for wages, saying over £500 was due and nothing paid for nine months (*S. P. Dom.*, Car. I., cccxl. 54). For the Mortlake industry, see W. G. Thomson, *History of Tapestry*, c. xiii.

in 1668, when Lord Sunderland and Henry Brouncker received a grant of the Mortlake premises at a rent of five shillings upon condition they restored the manufacture within a year.<sup>1</sup> Later, certain merchants who were 'willing to advance a considerable sum' applied for incorporation, 'without which they think it not safe to venture so much money as will be requisite, nor can they otherwise regulate and improve the manufacture as they propose.'<sup>2</sup> The Solicitor-General reported favourably upon their project as settling a considerable manufacture, causing great consumption of wool, and employing numbers of the poor.<sup>3</sup> Letters patent were accordingly granted.<sup>4</sup> During the next reign, however, one Daniel Harvey, in whom the benefit of the patent had become vested, obtained his release from a business which the multiplication of tapestry-makers in and about London and Westminster had made unprofitable at Mortlake.<sup>5</sup>

The manufacture of silks in England received considerable impetus by the incorporation of the Royal Lustring (or Lutestring) Company. A Frenchman (whose name is variously spelt Ducleu, De Clux, De Cloux and Duclew) made petition in 1687 for a patent for the making of certain silks 'heretofore only made at Lyons in France.'<sup>6</sup> The Attorney-General reported that 'whoever introduceth any foreign invention or foreign manufacture which never before was used in this Kingdom is in the nature of a new inventor,' but doubted the effect upon the customs revenue.<sup>7</sup> The patent, subsequently granted to Ducleu, Cloudesley and Sherard, contained several covenants, one of which compelled the grantees to give to the Treasury once in three months a sworn account of the number and length of the pieces of silk made, 'lustrated' and dressed under the patent, as well as the number of looms and persons employed, and to pay a duty of two shillings on each piece.<sup>8</sup> Provision (reminiscent of Elizabethan thoroughness<sup>9</sup>) was made for the more lasting establishment of the 'art or mystery.' The patentees covenanted forthwith to deliver to the Crown 'such an account in writing of the whole mystery of lustrating or dressing the said silks that a master weaver may on perusal of the said account be able effectually to dress and lustrate any of the silks aforementioned.' Moreover, Ducleu covenanted forthwith to teach his wife (an Englishwoman) the said art and invention, and to bring up and instruct therein one or more of his children born in England. He also promised to 'discover

<sup>1</sup> *Patent Rolls*, 19 Car. II., pt. 1.

<sup>2</sup> *Petition Entry Books*, 235, p. 177.

<sup>3</sup> *Ibid.*, p. 186.

<sup>4</sup> See patent printed *post*, pp. 225-7.

<sup>5</sup> See *Petition Entry Books*, 239, p. 100:

*Treasury Papers*, lxxxiv. 22, lxxxv. 11.

<sup>6</sup> *Petition Entry Books*, 71, p. 394.

<sup>7</sup> *Ibid.*, pp. 402-3.

<sup>8</sup> *Patent Rolls*, 4 Jac. II., pt. xi.

<sup>9</sup> Cf. *ante*, p. lviii.



and shew unto the said Paul Cloudesley and William Sherard his partners his utmost knowledge and skill, so as to make them 'perfect and absolute masters of the said art, manufacture, or invention.' In seven years' time the patentees were to take three English-born apprentices for a term of at least seven years, and three years later three more, giving them the fullest instruction. If any native or foreigner during the term of the grant learned the process otherwise than from the patentees, and, on presenting himself to the Commissioners of the Treasury, proved himself 'master of the whole art' by producing one or more pieces of silk by him made, lustrated and dressed to the same perfection as the work of the patentees, he was to be readily taken in and employed by the patentees upon such terms as should be directed. All these provisos and covenants<sup>1</sup> were renewed in the charter which was granted to Cloudesley, Sherard and others a few years later.<sup>2</sup> The antagonism of the Weavers' Company to the new corporation was met by a clause saving their rights.<sup>3</sup> The lustring manufacture was further fortified by a statutory prohibition of the importation of unlicensed foreign lustrings.<sup>4</sup> A subsequent statute insisted upon the sealing of such lustrings with the Custom-house seal already used for foreign goods and the company's mark used for goods manufactured in England.<sup>5</sup> This annoyed the Weavers' Company, who promoted a bill to allow themselves to seal. Against this bill the weavers employed by the Lustring Company petitioned, and the company itself alleged that its patent had been first obtained with the consent of the Weavers, that its Lyons rivals were bent on destroying it, and that the passing of the bill would be 'to the great joy and advantage of His Majesty's enemies and the ruin of many hundreds of families in England now employed by the Petitioners.'<sup>6</sup>

Not only was the bill not passed, but the company was further supported against the 'restless endeavours of France' to oppose the trade<sup>7</sup>

<sup>1</sup> There was also the usual provision for determination of the grant if it were found illegal, inconvenient, prejudicial, or not a new invention, or not invented and found out by the patentees: and it was stipulated that the grant should not permit them to imitate any work or invention for which a previous patent might have been granted.

<sup>2</sup> See patent printed *post*, pp. 231-4. The Attorney General had reported the attainment of 'great perfection in the said art,' and it was supposed that the incorporation might both save sending money to France, and employ many

thousands of poor in England (*Petition Entry Books*, 235, pp. 292, 307).

<sup>3</sup> See *post*, p. 233. There is some evidence that lustrings were made in England before Ducleu's grant (*House of Lords MSS.*, 1695-7, vol. ii., p. 139).

<sup>4</sup> 4 W. & M., c. 5, s. 12.

<sup>5</sup> 6 & 7 W. III., c. 18, s. 24.

<sup>6</sup> *House of Lords MSS.*, 1695-7, vol. ii., p. 139.

<sup>7</sup> *Commons' Journals*, xi., p. 594. For statements of French opposition see *ibid.*, xii., p. 211.

by the doubling of the customs duties on foreign lustrings.<sup>1</sup> And yet the trade languished. The seven hundred and sixty-eight looms employed in 1695 and 1696 were reduced to but forty or fifty in 1698, owing to 'the combination of many French merchants and others for the running and smuggling great quantities of alamodes and lustrings into this kingdom from Lyons and other parts of France.' The mischievous activities of the 'owlers' were disclosed in a lengthy report by a Committee of the House of Commons. Smuggling had been carried on with false names, code words, counterfeit Custom-house seals, and a correspondence which implicated Seignoret and Goudet, two committee-men of the company itself.<sup>2</sup> The House ordered the prosecution of various offenders, and the reward of Hilary Renew for his services to the company.<sup>3</sup> Other resolutions of the House were developed into a statute which confirmed the company's charter and privileges, and extended its period of sole manufacture for a term of fourteen years from the date of the Act.<sup>4</sup> When this term expired, there was no renewal.<sup>5</sup> But although the exclusive privilege had lapsed, the charter remained to figure in the promotions of the Bubble period.<sup>6</sup> Anderson, in his list of 'Doubtful Charters' in the year 1720, includes 'Lustring Company, ten thousand shares, valued at £1,200,000,' and adds the comment, 'not worth one farthing.'<sup>7</sup>

The curious history of the Hollow Sword Blades Company, formed in 1691 upon the petition of Sir Stephen Evans and others,<sup>8</sup> appears upon another of Anderson's pages. 'Although they were enabled to purchase lands,<sup>9</sup> to erect mills, and to receive and employ great numbers of German artificers, yet it did not succeed as was expected. The first patentees therefore sold or assigned their patent to a company of

<sup>1</sup> 9 W. III., c. 30 (increase from 40s. under the Book of Rates (12 Car. II.) to £4. See also 8 & 9 W. III., c. 24, s. 12.

<sup>2</sup> Seignoret stated he had taken 46 shares at £30, and 336 at £25, had procured foreign correspondents for the company and lent it £22,000 (*Commons' Journals*, xii., p. 222).

<sup>3</sup> *Ibid.*, p. 241. Goudet, Barrau, Seignoret, Baudouin, Santiny, Diharce, Pearse and Dumaistre were fined sums amounting to £19,500, which were devoted to Greenwich Hospital (*Lords' Journals*, xvi., pp. 339-340).

<sup>4</sup> 9 & 10. W. III., c. 43. Other provisions restricted importation to the Port of London only, and punished the counterfeiting of seals or marks with two hours' pillory and a £500 fine.

<sup>5</sup> The Weavers intended (in 1713) to manufacture when the term ended (*Commons' Journals*, xvii., p. 444).

<sup>6</sup> See *post*, p. cxxx.

<sup>7</sup> *History of Commerce*, iii., p. 104. See documents in *Petty Bag, Scire facias* proceedings, 54 and 55. The company pleaded its statute. See *Stent v. Bailis* (1724), 2 Peere Wms., 217.

<sup>8</sup> Their process, novel and known only to the petitioners' workmen (*Petition Entry Books*, 235, p. 182), was to enclose in the hollow blade a ball of quicksilver, the motion of which would add impetus to the weapon (see 71 *Revised Reports*, p. viii.).

<sup>9</sup> See the patent printed *post*, p. 220, and note the power to use a trade mark to distinguish English-made goods.



merchants in London, who thereupon purchased under that patent to the value of twenty thousand pounds per annum of the forfeited estates in Ireland.<sup>1</sup> But the Irish Parliament, in the reign of Queen Anne, knowing they had purchased those lands at a very low rate, would not permit them in their corporate capacity to take conveyances of lands, lest they might have proved too powerful a body in that kingdom.<sup>2</sup> This obliged them to sell off their Irish estates, which put a period to the corporation. Yet a private co-partnership of then well-known bankers in London, possessed of their obsolete charter, had the appellation of the Sword Blade Company, till after the year 1720, though long since broken up.<sup>3</sup> This partnership was hand in glove with the South Sea Company, two of the partners (Sir George Caswall and Jacob Sawbridge) being directors of that concern.<sup>4</sup> The intimacy, indeed, provoked the jealousy of the Bank of England,<sup>5</sup> for the 'Sword Blade Bank' throve for a while on the complications of South Sea finance. There appears also to have been a 'Sword Blade Coffee House,' where subscriptions were gathered for a 'Sword Blade Fire Office' in 1720.<sup>6</sup> In its Irish land dealings the Hollow Sword Blade Company (save that it suffered through having driven too shrewd a bargain) had a parallel in the Scotch land speculations of the York Buildings Water Company.<sup>7</sup>

XV

Adam Smith considered that only four trades were capable of successful conduct by a joint-stock company without an exclusive privilege; namely banking, insurance, the making and maintenance of canals, and 'the similar trade of bringing water for the supply of a great city.'<sup>8</sup> Canals (like railways), requiring compulsory powers for the acquisition of land, have gone direct to Parliament for that purpose; but banking, insurance, and water companies worked for a while under letters patent.

It was comparatively late before England followed Continental

<sup>1</sup> Under 11 W. III., c. 2, and other Acts. See *Anderton v. Magawley*, 3 Bro. P.C. 588.

<sup>2</sup> The title to the lands being called in question, a two years' limit to actions by claimants was imposed by 6 Anne, c. 61. For difficulties arising over the conveyances, see *Commons' Journals*, xiv., pp. 251, 324, 518, 534; also the Private Act, 2 Anne, c. xii.

<sup>3</sup> *History of Commerce*, II., p. 587. Their bonds were current, see *Ashton v. Dawson* in notes to *Farquharson v. Cave*, 2 Coll. C.C. at p. 363, 70 R.R. at p. 264, and cf. Pref. to 71 R.R. at p. viii.

<sup>4</sup> For dealings with their South Sea stocks, see Scott, iii., pp. 340-1, 440-1. For other members of the firm, see *Commons' Journals*, xix., p. 430.

<sup>5</sup> 'If the South Sea Company be wedded to the Bank, he ought not to be allowed to keep a mistress,' said the Governor of the Bank of England (Relton, *Fire Insurance Companies*, p. 129).

<sup>6</sup> *Ibid.*, p. 126.

<sup>7</sup> See *post*, pp. cxxvi.-cxxvii.

<sup>8</sup> *Wealth of Nations*, Bk. v., c. 1., pt. iii., art. i. *ad fin.*

precedents in setting up a public bank, though the needs of the government, the issue of tallies in anticipation of supply, the debasement of the coinage, and the practices of the goldsmiths, all pointed the path.<sup>1</sup> In 1651 a 'Mr. Robinson' desired the Commonwealth to erect a bank in England, which, by regulating exchange, should check the exhaustion of bullion.<sup>2</sup> Ten years later, Sir Balthazar Gerbier, an old servant of Charles I., advocated the 'establishment of banks of loan according to the form in several parts of the world,'<sup>3</sup> but had to complain of the hostility of London brokers.<sup>4</sup> Paterson's proposal for raising £1,200,000, of which a million should be lent to the State at six per cent., while the balance formed the capital of a bank empowered to issue bills, was developed by Montagu into the plan (ultimately adopted) of lending the money upon the security of a new duty on tonnage. As in the case of the East India subscription of 1698,<sup>5</sup> the subscribers were to be tempted by the offer of incorporation. The idea appealed to the Whigs, while the Tories were more interested in Chamberlain's proposed Land Bank. In 1693 Parliament was ready to incorporate the Bank of England, provided that half the full sum were subscribed before August 1694.<sup>6</sup> The corporation was not to trade, but could buy or sell bullion, gold or silver, and sell any goods which were *bona fide* deposited against money lent: it could deal in bills of exchange, and its bills were to be assignable. When its charter was duly granted,<sup>7</sup> the Bank began to circulate

<sup>1</sup> See a suggestion of 1579 in Murdin, *State Papers*, p. 327; and an account by Malynes in his *Canker of England's Commonwealth* (1601), pt. 2. For the goldsmiths' loans to the Government from 1677 onwards see *4th Rep. of Deputy Keeper of Records*, App. II., pp. 166-7.

<sup>2</sup> 'If the Commonwealth keep a correspondent or banker in Paris, Antwerp, Amsterdam, Rotterdam and in such-like principal places of trade, and have a stock of money on credit with each of them, their public exchequer may either return money upon them or increase change from them according to the par or intrinsic value, which will hinder transportation. . . By this balance of exchange you may see how the pulse of the balance of trade beats' (*S. P. Dom.*, Interreg. ix. 64).

<sup>3</sup> *S. P. Dom.*, Car. II., xl. 132.

<sup>4</sup> *Ibid.*, 133. See the scheme, *ibid.*, 131 (signed B. Gerbier d'Ouvilly), which suggested a main stock to which the King might contribute, the issue of 'bank-

money' (either crowns or half-crowns), the toleration of foreign coin, lending on real estate, and securing such governors of the Bank as would remove 'apprehension that the hands which command the militia shall also have disposal of the Bank.'

<sup>5</sup> See *ante*, p. liv.

<sup>6</sup> 5 & 6 W. & M., c. 20.

<sup>7</sup> *Patent Rolls*, 6 W. & M., pt. vi. (reprinted in Appendix to Lawson, *History of Banking*: see also draft in *Somers' Tracts*, xi., pp. 34-50). The charter specified forms of oath for members and officers, of declarations for Quakers and of memoranda for transfer of shares: it gave the needful directions to the Treasury for payments, and, *inter alia*, authorised the corporation to 'allow such salaries or allowances' to the Governor, Deputy, and Directors as might seem meet. Erected for a limited term, the Bank was continued by various Acts from 1697 onwards (see 33 & 34 Vict., c. 71, s. 72). Cf. charter, *ante*, p. liv.



notes. These were bought up by the hostile goldsmiths, who presented them for payment at the moment when large numbers of old clipped coins had been withdrawn from circulation. The run on the Bank was barely checked when Parliament proposed to create a rival. Chamberlain had been busy with his Land Bank project;<sup>1</sup> amongst others, Barbon and Asgill<sup>2</sup> united with Briscoe to form the National Land Bank which the Commons were disposed to favour in 1696. Both in its statute and its patent the Land Bank imitated the Bank of England;<sup>3</sup> but the subscriptions amounted only to a few thousand pounds, so that the project was killed. Even its death was to injure the Bank of England; for the latter was now pressed to make good the urgent loan which its rival was to have furnished to the government. As some reward, however, a monopoly of banking was conceded for the remainder of the period of the patent.<sup>4</sup>

The story of the Million Bank is recited in the statute which dissolved it.<sup>5</sup> The first subscriptions to the Bank in 1695 could be made either in cash or in tickets of the Million Lottery Loan of 1694. This loan offered benefits for sixteen years only,<sup>6</sup> so that lottery-ticket holders who took Million Bank stock had the chance of a permanent instead of a limited and wasting investment.<sup>7</sup> The project was based, not on a charter, but on a deed enrolled in Chancery.<sup>8</sup> The surviving proprietors had in hand considerable government securities to divide amongst themselves when Parliament (to cure any failure to obtain the sufficient consent of proprietors) was called in to end the concern in 1796.

The monopoly of the Bank of England was expressly saved in the charters of the Amicable Society and the Charitable Corporation.<sup>9</sup> The latter, the *Charitable Corporation for the Relief of the Industrious Poor by assisting them with small sums upon pledges at legal interest*,<sup>10</sup>

<sup>1</sup> See Scott, iii., pp. 246-9. See *Commons' Journals*, xi., pp. 22 (reporting the scheme as 'practicable'), and 80.

<sup>2</sup> See their Settlement (by deed poll enrolled in Chancery), *Close Rolls*, 7 W. III., pts. vi. and x.; see *Somers' Tracts*, xi., pp. 16-32.

<sup>3</sup> See statute 7 & 8 W. III., c. 31; *Patent Rolls*, 8 W. III., pt. ii. (draft charter in schedule to Commission of 20th May). The Land Bank had 30 'Trustees' and a 'Cashier' (instead of the 24 'Directors' and 'Treasurer' of the Bank of England). Its patent leaves blanks for names and sums, and omits the words which gave the Bank of England express powers to deal in bills of exchange, bullion, etc.

<sup>4</sup> By 8 & 9 W. III., c. 20, s. 28, no other bank, corporation, 'company or constitution in the nature of a bank' was to be erected or allowed by Act of Parliament (see 6 Anne, c. 22, s. 9, extending the restraint to all groups of more than six persons). The monopoly was removed in 1826 (7 Geo. IV., c. 46).

<sup>5</sup> 36 Geo. III., c. 91.

<sup>6</sup> See details in 5 W. & M., c. 7, ss. 34-39.

<sup>7</sup> See explanation by Dr. Scott, iii., pp. 275-287.

<sup>8</sup> *Close Rolls*, 7 W. III., pt. x. Mackworth's Deed of Settlement (*ante*, p. ciii.) to some extent imitated this scheme.

<sup>9</sup> See clauses, *post*, pp. 255, 262.

<sup>10</sup> See patent printed *post*, pp. 256-263.

was incorporated in 1708 after a petition by William Higgs.<sup>1</sup> It offered six per cent. upon goods pledged.<sup>2</sup> Its joint stock was not to exceed £30,000, while the patent was to be cancelled if £20,000 were not subscribed in eighteen months. Its officers were concerned in some of the less creditable activities of the York Buildings Company: it also appears to have dabbled in the insurance of goods from fire.<sup>3</sup>

Concerning fire insurance, two petitions were addressed to Charles I.<sup>4</sup> The first petitioner undertook to give approved security, and to hand over annually a substantial sum to the Crown, if allowed to insure at a premium of twelve pence per cent.<sup>5</sup> A second scheme, submitted by William Ryley and Edward Mabb, was authorised by letters patent in 1638.<sup>6</sup> For a payment of twelve pence per £20 of house rent, owners or inhabitants in London, Westminster or Southwark were to have their houses 're-edified as good or better than before' in case of fire. The patent, which was for forty-one years, licensed the making of 'policies or bills of assurance,' and the erection of one fire engine or more in every ward for the use of the undertakers. The latter covenanted to deposit £5000 (to accumulate at 5 per cent. to £10,000), to keep 'able and sufficient watches for discovery of fires,' to rebuild in reasonable time, and to pay the Archbishop of Canterbury £200 yearly towards the steeple of St. Paul's. The scheme was not to be compulsory.

For some years the City of London considered a municipal scheme, for which municipal credit and initiative seem to have been lacking.<sup>7</sup> In spite of the Great Fire, little was attempted till Dr. Barbon set up his 'Insurance office at the back-side of the Royal Exchange.' This, subsequently conducted as the *Fire Office* by himself, Sir John Parsons, Samuel Vincent and others, had to face the competition of the *Friendly Society* promoted by William Hale, Henry Spelman and their partners.<sup>8</sup>

<sup>1</sup> See *Petition Entry Books*, 241, p. 43. A pawn-office had existed earlier; see *Patent Rolls*, 5 Car. I., pt. x. (Beddingfield).

<sup>2</sup> See *post*, p. 260. In 1678 'divers poor artificers and handicraftsmen' of London asked the King to 'establish some way for the accommodation' of needy people 'with money upon their pawns at the interest of 3d. a week for every 20s.,' though that was 'above the common interest' (*Petition Entry Books*, 46, p. 241).

<sup>3</sup> Relton (*Fire Insurance Companies*, 85-8), reprints various documents. (The statutes 5 Geo. II., cc. 3, 31; 6 Geo. II., cc. 2, 35, 36; 7 Geo. II., c. 11, indicate the frauds of the staff and the relief needed for

sufferers). See *post*, p. cxxvii. (3).

<sup>4</sup> For the older custom of assisting fire victims by the issue of briefs see Walford, *Insurance Cyclopædia*, iii., p. 313 (where see a specimen brief of 1653). Its abuses were attacked by the statute 4 Anne, c. 14.

<sup>5</sup> *S. P. Dom.*, Car. I., cccc. 98.

<sup>6</sup> *Patent Rolls*, 15 Car. I., pt. iv. (see petition and report thereon in *S. P. Dom.*, Car. I., cccxxiii., pp. 326-8).

<sup>7</sup> See Walford, iii., pp. 442-455; and Sir W. Morrice's letter to the City in 1661 (*Remembrancia*, p. 143).

<sup>8</sup> See their proposals reprinted by Walford, iii., pp. 455-7, and references (*post*, pp. 207-8) to deeds enrolled in Chancery.



The King in Council examined the rival claims in 1687, declared that no such undertaking ought to be carried on without his royal warrant and authority,<sup>1</sup> and finally, with the judgment of a Solomon, divided the body of insurance business between the two claimants. The Fire Office was formally erected, with a monopoly of fire insurance for a year : after a year the Friendly Society, having first obtained a patent, might insure for three months while the Fire Office stood idle ; then the Fire Office might work again for three months, and so on alternately during the thirty-one years of the patent.<sup>2</sup>

The Fire Office covenanted to pay £60 yearly for distribution among the gunners and other servants of the Ordnance Office for services in extinguishing fire.<sup>3</sup> In 1702 it complained that the Friendly Society and others had proceeded to insure contrary to the patent and in spite of its prohibitions, none of them paying anything to the gunners. It was 'advised by many learned counsel that the said Friendly Society and other undertakers cannot be restrained from making such insurances by virtue of the patent,' and that the grant 'is wholly void and was so at the time of making thereof.' As the Fire Office got no benefit by its patent, and since no gunners had been required since the last payment ('your petitioners keeping in their constant pay many servants for that service'), a surrender of the patent was offered and accepted.<sup>4</sup>

Details of further undertakings, the Phoenix, the Hand-in-Hand, the Sun, the Union and other companies, may be studied in the pages of Walford and Relton.<sup>5</sup> The next charters for fire insurance seem to have been those by which the two great marine insurance corporations of 1720 were allowed to extend their business to fire.<sup>6</sup>

As for marine insurance, 'it hath been'—it was said in 1601—'time out of mind an usage among merchants both of this Realm and of foreign nations.' Controversies, which rarely arose, were usually referred to merchant arbitrators<sup>7</sup> until the increasing attempts 'to draw the parties assured to seek their monies of every several assurer by suits

<sup>1</sup> See account of Council meeting and orders, Walford, iii., pp. 458–9.

<sup>2</sup> See patent printed *post*, p. 207. It contains no words of incorporation.

<sup>3</sup> See *post*, p. 211. The Fire Office had power to distinguish their servants by liveries or badges (see *post*, p. 209): compare statute 6 Anne c. 31 s. 2.

<sup>4</sup> *Petition Entry Books*, 240, pp. 43, 93. The Solicitor-General suggested that payment of arrears (since 1697) should not be insisted upon.

<sup>5</sup> Walford, *Insurance Cyclopædia*, iii., pp. 460 *et seq.*: Relton, *Fire Insurance Companies* (largely founded on Walford, but dealing specially with Charles Povey's

schemes and the Sun Fire Office). In 1780 the Attorney-General thought 'voluntary associations of respectable people' preferable to corporations for insurance (Eden, *Insurance Charters*, p. 15: Walford, iii., p. 485).

<sup>6</sup> London Assurance (of houses and goods from fire) *Patent Rolls*, 7 Geo. I., pt. iv. Royal Exchange (ditto), *ibid.* See *post*, p. cxix.

<sup>7</sup> In *S. P. Dom.*, Eliz., xcii., 45; Velutelli (see *ante*, p. xxxviii.) describes such a reference. See the early reported cases from 1548 onwards in *Select Pleas in the Court of Admiralty* (Selden Soc.) II., pp. 45, etc. Cf. 6 Co. Rep. 47b.

commenced in Her Majesty's Courts, to their great charges and delays,' made it desirable to set up a standing commission for hearing, 'in a brief and summary course . . . without formalities of pleadings or proceedings,' cases concerning policies entered 'within the office of assurances in the City of London.'<sup>1</sup> This office had been established in 1574, merchants having been 'greatly abused for want of good and orderly keeping in register the assurances made in England on ships,' to the discredit of 'the ancient custom of merchants in Lombard Street and now the Royal Exchange.'<sup>2</sup> Charles I. continued the registration office.<sup>3</sup> Charles II. was asked to encourage Colonel John Russell and others who, as first proposers, desired the entire management of a scheme for raising a fund of £100,000 or more for insurance.<sup>4</sup> They estimated that premiums at £5 per cent. would amount to £175,000 a year,<sup>5</sup> and trade would increase. 'It may in time be hoped to become the general insurance office of Europe, especially if encouraged by Act of Parliament.'

The insecurity of the private underwriting which went on in the coffee-houses of London was proved by the failures caused by losses of ships during the war with France. A bill to enable merchant insurers 'the better to satisfy their several creditors' passed through the House of Commons, but was rejected by the Lords.<sup>6</sup> At length the greater safety of insurance by corporation was—not without protest—recognised; Lord Onslow's London Assurance Corporation and Lord Chetwynd's Royal Exchange Assurance Corporation were chartered in 1720<sup>7</sup> with parliamentary sanction and exclusive powers.<sup>8</sup> Attacks

<sup>1</sup> 43 Eliz., c. 12, amended by 14 Car. II., c. 23. See the damaging decision in *Came v. Moye* (1658), 2 Sid., 121. Cf. a case of life assurance in 1649, *Denoir v. Oyles*, Style, pp. 166, 172, 418.

<sup>2</sup> See grant to Richard Candeler (Gresham's factor), *Patent Rolls*, 17 Eliz., pt. ix., and Rodriguez' petition, *S. P. Dom.*, Eliz., cx. 42. The Privy Council had previously inquired concerning rates and registration, and had bidden the Lord Mayor follow the 'prices accustomedly paid in other countries' (*Acts of the Privy Council*, 1571-1575, p. 397).

<sup>3</sup> See grant to Richard Bogan, *Patent Rolls*, 3 Car. I., pt. iii. See also *Veale v. Priour* (1665), Hardres, 351. Two policies on cargoes in 1637 are to be seen in *S. P. Dom.*, Car. I., ccclxiii. 31, ccclxvii. 15.

<sup>4</sup> The fund was to be invested with the East India Company or 'in some public secure way' (*S. P. Dom.*, Car. II., *Trade Papers*, cxxxiii., pp. 70-1: the *Calendar of the State Papers* states that the document,

which I have failed to trace, cites former schemes and explains their defects).

<sup>5</sup> They took the customs at £700,000, multiplied by ten for the total yearly trade, halved the sum to obtain the figure for imports and exports, and took £5 per cent. on it (*S. P. Dom.*, Car. II., lxvi., 53).

<sup>6</sup> See *Commons' Journals*, xi., pp. 25, 110 (Defoe's petition at p. 87): *Lords Journals*, xv., p. 390.

<sup>7</sup> *Patent Rolls*, 6 Geo. I., pt. v.; see *ante*, p. cxviii., as to fire). For the charters £600,000 was promised towards George's Civil List (see *Commons' Journals*, xix., p. 357): relief as to half this sum was quickly needed (see 7 Geo. I. c. 27. s. 26).

<sup>8</sup> Subject to safeguards against the 'extravagant and unwarrantable' raising of voluntary subscriptions for projects dangerous to trade (*Commons' Journals*, xix., p. 361), and saving private underwriters' rights (see 6 Geo. I., c. 18). For the monopoly as to canal and river navigation, see 41 Geo. III., cc. 57, 58.



on this monopoly for marine insurance did not succeed until the year 1824, when other companies were permitted (as private underwriters had been) to engage therein.<sup>1</sup>

In the early stages of Lord Onslow's scheme, the Attorney-General had reported adversely.<sup>2</sup> Thereupon the company bought out the shares of the old proprietors of the Mines Royal and Mineral and Battery Works,<sup>3</sup> and proceeded to seal policies as a corporation. One of the governors said 'he apprehended they were doing what was legal and for the advantage of trade; for that they had consulted, and had the opinions of several eminent counsel that they might insure ships by virtue of the charters for the Mines Royal and the Mineral and Battery Works. . . . When they first applied for a charter, they had great opposition and were then advised to make this experiment.' Merchants came to them 'because they think themselves more secure.'<sup>4</sup>

The ingenuity of promoters colours the manifold projects in other forms of insurance at the close of the seventeenth century. The proposals for insurance concerned marriage,<sup>5</sup> the baptism of children,<sup>6</sup> apprenticeship,<sup>7</sup> widowhood,<sup>8</sup> unemployment,<sup>9</sup> and other contingencies. One group asked for incorporation as the *Amicable Corporation for the*

<sup>1</sup> 5 Geo. IV., c. 114. See *Commons' Journals*, lxi., p. 390; lxx., p. 54 (application for incorporation and for power to insure ships, etc., by the Globe Company, which already did fire and life business), and lxx., p. 56 (complaint that the two privileged companies insure only  $\frac{1}{100}$  of English marine insurance).

<sup>2</sup> *Commons' Journals*, xix., p. 344. This was that Nicholas Lechmere who had to meet a charge of permitting at his chambers 'public biddings, as if at an auction,' for charters (*ibid.*, pp. 305-10).

<sup>3</sup> In number about 124, at £23 8s. 6d. per share (*ibid.*, p. 344.)

<sup>4</sup> *Ibid.* See further, *post*, p. cxxx.

<sup>5</sup> See Smith's petition for a patent for an office of this kind (*Petition Entry Books*, 245, p. 168), asserting payments of several hundred pounds already. Others claimed equal progress and protection, 'the design not being in itself a new invention' (p. 169). An unhappy widow and others, 'drawn in to be subscribers,' complained that they had 'paid great sums weekly, remained single for twelve months' and 'married pursuant to his proposals,' and yet upon demand of their money Smith refused

to pay. The petitioners had 'given notes to persons they have prevailed with to marry, which now they are not able to pay.' They trusted Smith because of his patent (*ibid.*, p. 505).

<sup>6</sup> See Clement's petition for sole benefit of his scheme (*ibid.*, p. 171), and other details in Walford, i., pp. 540-1.

<sup>7</sup> Amongst others, the Hudson's Bay Company seems to have used its charter for this; see Walford, i., pp. 176-9.

<sup>8</sup> Isaacson and others petitioned in 1698 for erection of an office after two years of this work (*Petition Entry Books*, 238, p. 239). Dr. Assheton's benevolent scheme was taken up by the Mercers' Company in 1698 without success; see a hostile petition in *Commons' Journals*, xxv., p. 258, and a request for relief for annuitants, *ibid.*, p. 289, supported by the 'Governors of the Charity for Relief of the poor Widows and Children of Clergymen,' incorporated (see *Patent Rolls*, 30 Car. II., pt. vii.): see also information recited in statute 21 Geo. II., c. 32, and Clifford, *Private Bill Legislation*, ii., pp. 601-612.

<sup>9</sup> See scheme of Burton and others (*Petition Entry Books*, 245, p. 523).

*Benefit of Seamen taken or lost at sea, and for Relief of their Widows and Families.*<sup>1</sup> Another, a *Society of Assurance for Widows and Orphans*, having suffered from the maladministration of an absconding master, was advised to apply for incorporation 'as the only means to perfect their proposals and to prevent the like abuses and miscarriages for the future.'<sup>2</sup> This need of power to prosecute and to sue had considerable influence on the development of associations in England. Some of the later insurance companies obtained this power by statute while nevertheless remaining unincorporated.<sup>3</sup>

Members of early guilds might be generous in the assistance and burial of poor brethren. Systems named after Tonti might produce some kind of insurance based on mutual contribution. But until the expectation of life could be estimated from statistics scientifically collected and examined,<sup>4</sup> until Halley, Petty and others had published their calculations, there could be little life insurance as we now know it. Malynes had written in 1602 that in moneys delivered upon lives, annuities, and pensions, 'you are to remember the observations of assurers, whether the persons be young or old, sober in their diet and behaviour, much travelling abroad or staying at home, subject to sickness, and the like considerations.'<sup>5</sup> Yet there is little sign of actuarial principles in the first life insurance charter, granted in 1706 to the *Amicable Society for a Perpetual Assurance Office*.<sup>6</sup> The members of the society, who were not to exceed two thousand, were bidden by the charter to pay one shilling quarterly and ten shillings monthly, making a total of £6 4s. for the year.<sup>7</sup> Each member nominated a beneficiary.<sup>8</sup> The nominees of members who died during the first year were to divide one-sixth of the annual payments of six pounds: nominees of members dying in the second year were to divide £4000: in the third year the sum was to be £6000, and in every subsequent year £8000. It thus appears that, although the patent authorised the directors to 'approve or reject' any subscriber, payments and benefits were uniform and had no regard to age, sex, or health. According to Walford, a by-law was afterwards

<sup>1</sup> *Ibid.*, p. 284.

<sup>2</sup> *Petition Entry Books*, 246, pp. 289-290.

<sup>3</sup> See, for example, the Alliance Company's Act, 1825, 6 Geo. IV., c. cclii. Cf. the general power given in 1837 (7 W. IV. and 1 Vict., c. 73, ss. 2, 3).

<sup>4</sup> See the charters of the Society of Parish Clerks in and near London (*Patent Rolls*, 9 Jac. I., pt. xiii.; 14 Car. I., pt. xlv.) ordering them to send weekly to the Clerks' Hall a true note, signed, of all christenings and

burials for the week, and of the diseases which caused deaths, and empowering the printing of the weekly bills of mortality.

<sup>5</sup> *Lex Mercatoria*, pt. ii. c. xviii.

<sup>6</sup> See patent printed *post*, p. 248.

<sup>7</sup> An entrance fee went to the Registrar, who was appointed by the charter; see *post*, p. 252.

<sup>8</sup> The choice could be changed by paying two shillings and taking out a fresh policy.



passed restricting admission to persons who were between twelve and forty-five years of age and who appeared to be in a good state of health.<sup>1</sup> A further charter in 1730 allowed directors to examine on oath as to the death of members, the health of proposed members, or the alleged loss of a policy.<sup>2</sup> Surviving a multitude of other companies of the kind, the Amicable Society was in 1866 dissolved and taken over by the Norwich Union Life Insurance Society, which still possesses the original charter of 1706. The statute which effected this fusion bore witness to the incompatibility of modern methods and those of 'the first experiment in life assurance.'<sup>3</sup>

English insurance had its chance of being municipal,<sup>4</sup> but somehow surrendered itself into private hands until the passing of a National Insurance Act. The enterprise of supplying water (in London, at any rate) has returned to the public control anciently designed for it. An early effort by the City of London to obtain a water-supply from a distance resulted in the parliamentary powers granted in 1546<sup>5</sup> for bringing in water from Hampstead Heath, Marylebone, Hackney, Muswell Hill and other places within a radius of five miles. Power was given to enter upon private land and search for springs,<sup>6</sup> and machinery was set up for assessing compensation to landowners. After some fifty years four reservoirs were (according to Matthews<sup>7</sup>) constructed upon the high ground of Hampstead. In 1574 the Corporation arranged for a supply of water with a Dutchman named Morice, who utilised the tidal fall through the narrow arches of Old London Bridge.<sup>8</sup> In spite of early financial difficulties and the oppo-

<sup>1</sup> Walford, i., p. 75. where see details of the society's history.

<sup>2</sup> *Patent Rolls*, 3 Geo. I., pt. i.

<sup>3</sup> 29 & 30 Vict., c. cxxxv.

<sup>4</sup> See the remarks of Walford on Municipal and State Fire Insurance, iii., pp. 525 *et seq.* The Common Council in 1660 rejected a scheme recommended by the King because they thought it 'unreasonable for private persons to manage such an undertaking, or that anyone but the City should reap the profits of the enterprise' (see *ibid.*, p. 440).

<sup>5</sup> Statute 35 H. VIII., c. 10 (following and enlarging the Act of 33 H. VIII., c. 35, which gave powers to Gloucester). For the water supply of London before this date, see Clifford, *History of Private Bill Legislation*, vol. ii., pp. 36-48 (note, *ibid.* pp. 926-31, the account of the inquisition and verdict upon the draining and water

supply of Kingston-upon-Hull in 1402); Matthews, *Hydraulia*, chapter i. Stow's *Survey* contains considerable information. For water companies generally see Clifford, vol. ii. and Scott, vol. iii., division vi.

<sup>6</sup> Except in houses, gardens, orchards or walled places. The servants of the Corporation were not to be molested.

<sup>7</sup> *Hydraulia*, p. 13.

<sup>8</sup> His name is variously spelt: see his water-pumping patent (*Patent Rolls*, 20 Eliz., pt. x.) for twenty-one years, to be in use within three years. Matthews describes from an earlier account and engraving the scheme of water-wheels, cisterns and pumps. Sufficient pressure was developed to show the Corporation that a jet of water could be thrown over St. Magnus' Church steeple (*Hydraulia*, pp. 26-9).

sition of the 'poor water-bearers,'<sup>1</sup> he obtained in 1581, with the support of the Lords of the Council,<sup>2</sup> a five hundred years' lease of the first arch, followed by subsequent leases of four other arches.<sup>3</sup> The Morice family continued in charge of the enterprise for many years,<sup>4</sup> and set a precedent for the making of private profit out of the supply of water to the public.<sup>5</sup>

A water supply which made provision against fire and undertook the scouring of ditches was projected in 1591 by the Italian Genibelli, but apparently went no further.<sup>6</sup> In 1606 Parliament sanctioned a fresh scheme for the City to bring in water in a ten-foot trench from the Chadwell, Amwell, and other springs in Hertfordshire.<sup>7</sup> Provision was made for compensation and for the impartial assessment thereof before sixteen Commissioners;<sup>8</sup> the undertaking was to be vested in the Commission of Sewers. The inactivity of the City Fathers, the enterprise of Hugh Middleton, the agreements for the transfer of the work to him, and for his sharing its profits with King James, are sufficiently recited in the New River charter.<sup>9</sup> Objections from inhabitants of Hertfordshire, from landlords,<sup>10</sup> and from opponents who

<sup>1</sup> See *Remembrancia*, p. 553.

<sup>2</sup> *Ibid.*, p. 551.

<sup>3</sup> See two Indentures between the Queen, the City, and Morice, dated 30 May, 23 Eliz., and 24 Dec., 25 Eliz., and one between the City and Morice's grandson Thomas, dated 24 Nov. 1701 (see statute 3 Geo. IV., c. cix). See also Clifford, *op. cit.*, vol. ii., pp. 53-4, Scott, vol. iii., pp. 14-15. These leases were to be determined at the same date as that of the first arch (2082).

<sup>4</sup> The Act for rebuilding London (19 Car. II., c. 8, s. 39) mentions Thomas Morice's waterhouse, 'to be rebuilt of timber for the supplying the south side of the City with water, as it for almost this hundred years hath done.' Apparently James I. intervened on one occasion to prevent the erection of a waterhouse on London Bridge for supplying Southwark 'to the prejudice of his waterworks at Islington' (*Remembrancia*, p. 558).

<sup>5</sup> Middleton, whose New River water James forced upon reluctant Londoners, undertook (see Indenture, *Patent Rolls*, 10 Jac. I., pt. x.) at his own cost to 'derive a quill' from his main pipe to serve the poor people near St. John's Street and

Aldersgate Street without charge.

<sup>6</sup> See Hulme, *L.Q.R.* xvi., p. 53.

<sup>7</sup> 3 Jac. I., c. 18. The following year permission was given to carry the stream in a stone or brick vault, or upon arches (4 Jac. I., c. 12).

<sup>8</sup> This repeats the arrangement made in the Act of 13 Eliz., c. 18, for bringing the River Lea to the north side of London. Dr. Scott considers this Elizabethan Act a forerunner of the New River scheme; but it appears to contemplate a canal merely for navigation, not for water supply, though it is mentioned with other Acts in the preamble to the New River Act of 1852. The sketch plan in *S. P. Dom.*, Eliz., cxviii. 67 (dated 1577 by the Calendar), showing a proposed 'new cut from the Lea to near Moorgate,' may be connected with the Act of 1571.

<sup>9</sup> See *post*, pp. 106-117; the Corporation of London purports to assign its statutory powers to a private person by mere contract.

<sup>10</sup> Under the Act of 1606 nothing was to be done 'till a full agreement with the lords, owners and occupiers of the premises be had,' or till an order was duly made by the Commissioners.



preferred municipal trading to private enterprise,<sup>1</sup> caused delay : there were rivals also in the field. A certain Edward Hayes had a scheme for a water supply from Rickmansworth, in which he tried to interest the King.<sup>2</sup> James had been inclined to favour his newly-founded College of Divinity, the endowment of which he had vainly sought to encourage by conferring capacity to hold lands and hereditaments up to the yearly value of £3000.<sup>3</sup> A statute which oddly mingled piety and profits<sup>4</sup> empowered the 'Provost and Fellows of the College of King James in Chelsea, near London,' to construct a ten-foot trench from the Lea to Chelsea.<sup>5</sup> Finally, however, the King gave his influence and support to Middleton, taking upon himself half the expense (past and future) and receiving a half share in the concern.<sup>6</sup> In respect of Middleton's remaining moiety, which was divided into thirty-six parts, a charter of incorporation was given in 1619.<sup>7</sup> Outstripping its rivals, at first by royal favour,<sup>8</sup> and later by superior financial strength and ampler water supply, the New River Company made better use of the opportunities offered by the building of a new London after the Great Fire. Though it repeatedly failed to reinforce its charter with a statute<sup>9</sup> in times when monopolies and royal incursions into trade

<sup>1</sup> See the objections and answers thereto in *S. P. Dom.*, Jac. I., lxxxviii. 106. A bill had been brought forward to repeal the statutory powers.

<sup>2</sup> He wrote to Salisbury (*S. P. Dom.*, Jac. I., lxvi. 38) in 1611, alleging 'the King's double advantage and public good of the City, whose wants of water are greater than Mr. Middleton and I shall be able to supply.' He abused the muddiness of the New River (see *Hydraulia*, p. 32).

<sup>3</sup> See the charter (*Patent Rolls*, 8 Jac. I., pt. lviii.). The list of manors, messuages and other property which the college may hold includes the word *aqueductus*.

<sup>4</sup> It recites first the theological foundation, and next 'that it is manifest and evident that the bringing in of fresh streams of running water into the City of London is very convenient, necessary and profitable.'

<sup>5</sup> 7 Jac. I. c. 9 : provision is made for compensation and assessment.

<sup>6</sup> See Indenture (*Patent Rolls*, 10 Jac. I., pt. x) mentioned *post*, p. 109. In 1631 the King's moiety was commuted into an annuity of £500 by an Indenture which may still be seen at the company's office. The royal interest was split up and transferred to purchasers, but the charge (known as the 'King's Clog') remained; see details in *Adair v. New River Co. and*

*Metrop. Water Board* (1908), 25 *T.L.R.* 193.

<sup>7</sup> *Patent Rolls*, 17 Jac. I., pt. xvi.: printed *post*, pp. 106-117. The charter survives at the company's office, where the Secretary courteously permitted me to inspect the original documents. A map of the New River course is included in *Hydraulia*, at p. 61.

<sup>8</sup> In 1616 the Privy Council requested the City, in view of the backwardness of citizens in supporting Middleton and paying for his water, to 'provide by Common Council or otherwise that all such houses in the City and liberties as either of necessity or convenience might use the same water' should be required to do so. In the next year they again intervened to obstruct some proposed waterworks at Dowgate (see *Remembrancia*, pp. 556-8; Clifford, vol. ii., pp. 72-4). The patents of knighthood and baronetcy to Middleton express recognition of his services. Cf. *ante*, p. xcvi. (2).

<sup>9</sup> See the records of first readings in 1621, 1623 and 1642 (*Commons' Journals*, i., pp. 611 and 727; ii., p. 554). Coke's opinion is thus summarised (*ibid.*, i. p. 745): 'This is a very good bill: prevents one great mischief that hangs over the city—*nimia potatio, frequens incendium*.'

were unwelcome, it managed in its notable career to absorb three other undertakings—the York Buildings, London Bridge, and Hampstead Aqueducts Companies. Its charter, saved by the New River Act of 1852,<sup>1</sup> was superseded in the present century when the control of its water supply passed back from private into public hands.<sup>2</sup> But the company still survives to administer its property.

Of the companies absorbed by the New River scheme, the Hampstead Company was a descendant of the undertaking authorised by the statute of Henry VIII.<sup>3</sup> William Paterson, remembered for his part in the history of the Darien Company and in the foundation of the Bank of England, had joined with Samuel Tucker and Israel Hayes in taking a lease from the City of London of its unused powers of bringing in water from Hampstead and elsewhere. At the end of the eighteenth century, when water shares were being freely subscribed for, the Hampstead Aqueducts Company was formed.<sup>4</sup> In 1858 it gave a perpetual lease of its works to the New River Company, receiving a yearly rent of £3500.<sup>5</sup>

The co-partnership of the 'Proprietors of the London Bridge Waterworks,' managed by a committee of nine 'Assistants,' was formed by Richard Soames in 1703 out of the old business carried on by the Morice family,<sup>6</sup> and a new business created by leasing certain City conduits.<sup>7</sup> After more than a century of life it transferred its rights and works to the New River Company in return for a guaranteed dividend of 2½ per cent.<sup>8</sup> The London Bridge supply had never been adequate for use on higher levels. The rights of the proprietors were saved when provision was made for widening the passage over London Bridge in 1756.<sup>9</sup> But the old bridge was destined to be replaced, and it was necessary at length to remove the waterworks.<sup>10</sup> The substitution too, in 1810, of iron for wood in the New River mains had hastened

<sup>1</sup> 15 & 16 Vict., c. clx., s. lxxv. See also an encouraging statute of 1738 (12 Geo. II., c. 32).

<sup>2</sup> See the Metropolis Water Act, 1902 (2 Ed. VII., c. 41), s. 9; and 4 Ed. VII., c. xlviii. (see in schedule thereto the substituted Memorandum of Association).

<sup>3</sup> See above, p. cxxii.

<sup>4</sup> See details of the agreement as to shares (600, including 100 promoters' shares) and the express provision for shareholders' liability, cited by Scott, vol. iii., pp. 5, 6.

<sup>5</sup> The 600 shares thus receive £5 16s. 8d. apiece *per annum* (less tax): see *ibid.*, p. 9.

<sup>6</sup> See *ante*, p. cxxiii. They sold to

Soames for £38,000.

<sup>7</sup> For this City Conduits Company, see Scott, vol. iii., pp. 12–15.

<sup>8</sup> Until the year 2082, when Peter Morice's original lease will expire (see *ante*, p. cxxiii. (3)). Details of the transference are cited by Scott, vol. iii., pp. 14–16, from the deed of covenant.

<sup>9</sup> Statute 29 Geo. II., c. 40.

<sup>10</sup> 'Whereas the great fall of water occasioned by the said waterworks and obstructions renders the navigation through the bridge at particular times of the tide dangerous and destructive to the lives and properties of His Majesty's subjects' (3 Geo. IV., c. cix.).



the end of its rival upon the, by this time, less pellucid Thames. The company was formally dissolved in the reign of George IV.<sup>1</sup>

The York Buildings Company had a strange history before it also was swallowed up in the New River system. In 1664 Williamson and Wayne, having a patent for an engine which 'by perpetual motion' would drain levels or mines though fifty fathom deep,<sup>2</sup> asked leave to convey water to part of London at reasonable charges. Their petition received the favourable report of the Attorney-General.<sup>3</sup> Sir William Pulteney who held certain springs near Piccadilly from the Earl of St. Albans, certified that the patentees had come to terms with him, that the work was useful, and that no further disturbance of property or ownership need occur.<sup>4</sup> In 1675 Bucknall and Wayne received a ninety-nine years' licence<sup>5</sup> to erect waterworks upon a building estate on the site of York House, at one time the London residence of the Archbishop of York.<sup>6</sup> The works were erected, but later were burnt down. Having rebuilt them, the patentees petitioned in 1690<sup>7</sup> that, notwithstanding the conveniency of the said works to the inhabitants, they found they could not govern the same, let leases, nor do any other things necessary for the said undertaking without an Act of Parliament. More fortunate than some other water undertakings at this date,<sup>8</sup> the York Buildings Company was incorporated in 1691.<sup>9</sup> Apparently at first good business was done,<sup>10</sup> but the company in later years turned from water to land. The failure of the Scotch Jacobite rising in 1715 gave attractive opportunities for successful purchase and re-sale of forfeited lands.<sup>11</sup> In 1719 the

<sup>1</sup> Parliament recognised the New River arrangement and the payment of £10,000 to the London Bridge proprietors by the City (*ibid.*).

<sup>2</sup> See *Patent Rolls*, 15 Car. II., pt. xii.

<sup>3</sup> *S. P. Dom.*, Car. II., xcviii. 70.

<sup>4</sup> *Ibid.*, 140.

<sup>5</sup> Printed *post*, at pp. 193-6. Compare the undertaking of Sir E. Ford and Thomas Togood near Somerset House (see *S. P. Dom.*, Car. II., cxiii. 141).

<sup>6</sup> *The York Buildings Company*, by David Murray (1883: Maclehose), gives a careful history of the undertaking and especially of its later developments (see *post*, p. cxxxi.). See also Scott, vol. iii., pp. 418-34, and Wright, *Caricature History of the Georges* (1904 ed.), pp. 44-8 (citing a squib of 1725 called the 'York Buildings Dragons').

<sup>7</sup> See *Commons' Journals*, x., p. 458.

<sup>8</sup> Hugh Merchant and Charles Rampaine, representing groups of proprietors of the Marylebone and Thames waterworks respectively, petitioned for an Act in vain. *Commons' Journals*, x., pp. 502, 503.

<sup>9</sup> 2 W. & M. (sess. 2), c. 24. Compare the incorporation of the Shadwell Waterworks proprietors by 3 W. & M., c. 37, following a privilege to Thomas Neale (*Patent Rolls*, 32 Car. II., pt. i.), whose patents for inventions, wreck-raising and other schemes are frequent in the Patent Rolls.

<sup>10</sup> Apparently the average annual water-rent per house was twenty-five shillings.

<sup>11</sup> See statutes of attainder and forfeiture, 1 Geo. I., cc. 32, 42 and 50. Sale of the estates was provided for by 4 Geo. I., c. 8; purchasers could grant annuities up to the yearly value (6 Geo. I., c. 24).

proprietors of the waterworks sold their interest to Case Billingsley and others for £7000.<sup>1</sup> A fund of £1,200,000 was opened for purchasing estates; the ten-pound shares rose in a few months to more than three hundred pounds. Application for a further charter was discontinued upon counsel's opinion that the existing powers sufficed.<sup>2</sup> Their inflated capital, the unpopularity of their position as landowners, their losses in iron, coal, salt and glass ventures,<sup>3</sup> their constant litigation (to which the Scottish Law Reports bear witness), stockjobbing and the dishonesty of their servants—all these contributed to the failure of the company. Afterwards, when death relieved them of their annuities and the rise in land values helped to pay off debts, their position improved. Creditors and shareholders being at length satisfied, the company in 1818 transferred its waterworks (which since 1746 had been in the hands of lessees) to the management of the New River for 2000 years at an annuity of £250 18s. 6d. Eleven years later Parliament dissolved the York Buildings Company, vesting its property in trustees for sale, the proceeds of which were divided amongst the shareholders.<sup>4</sup>

The later history of the London water supply is a matter, not of charters, but of statutes. In the eighteenth century frequent efforts were made (successfully in such cases as the Chelsea,<sup>5</sup> East London<sup>6</sup> and Lambeth<sup>7</sup> schemes) to obtain Parliamentary authority to provide for increasing needs. The incorporation of canal companies offered further opportunities of rivalry in supply;<sup>8</sup> for a while even the London

The Excise Act of 1720 (7 Geo. I., c. 20, s. 35) allowed the company to sell annuities by way of lottery. For the Attorney-General's opinion upon the point of *ultra vires*, see *post*, p. cxxxi. (2).

<sup>1</sup> Walford, *Insurance Cyclopædia*, s. v. Annuities on lives' (vol. i., p. 115), prints the advertised offer to sell, the resolution for raising a fresh joint stock ('for purchasing forfeited and other estates in Great Britain, to be a fund for granting annuities for life and for assuring lives'), and the advertisement which followed.

<sup>2</sup> Cf. *ante*, p. cxx.

<sup>3</sup> See Murray, *op. cit.*, for an account of these, and for the losses incurred in keeping up the price of the company's shares. These share-dealings were complicated by an issue of bearer bonds and by a discreditable incident in 1727, when a

group bought for the rise with money borrowed upon bogus pledges from the Charitable Corporation (*ante*, p. cxvii.).

<sup>4</sup> Private Act, 10 Geo. IV., c. 28: see statement of property in schedule thereto.

<sup>5</sup> The Chelsea Waterworks Company was incorporated in 1721 by 8 Geo. I. c. 26, with a saving for existing undertakings and a clause (reminiscent of the York Buildings) forbidding the sale of stock or shares until the water was actually brought to the proposed reservoir.

<sup>6</sup> See 21 Geo. II., c. 8., for Stratford, West Ham, Bow, etc.

<sup>7</sup> See 25 Geo. III. c., 89.

<sup>8</sup> See the powers in the Acts obtained by the Grand Junction Canal (38 Geo. III., c. 33: and see the separate incorporation for water in 1811 (by 51 Geo. III., c. 169) of the Croydon (41 Geo. III., c. 127) and Surrey (48 Geo. III. c. 99) canal companies.



Docks Company was a purveyor of water.<sup>1</sup> Cut-throat competition gradually led to a demarcation of districts between competitors.<sup>2</sup> This result, together with the recognition of the public need for purer and more plentiful water, prepared the way for the substitution of public for private control. Thus the tale ends at the point where it began, with water supply as a municipal undertaking.

## XVI

The would-be investor who, in 1694, took in Houghton's weekly news-sheet, could see a list of the 'actions' of about sixty companies.<sup>3</sup> Of these some were mere partnerships which had failed, or not attempted, to obtain a charter.<sup>4</sup> Some had won their charters, and of these some had further received statutory confirmation.<sup>5</sup> Statute and charter were beginning to bear a new relation. Sometimes a statute authorised the issue of a charter which would otherwise have been void.<sup>6</sup> Sometimes, where national interests and national credit were concerned, statute promised a charter to those investors who would unite in subscribing a definite sum for a definite undertaking, such as the Bank of England, the National Land Bank, or the East India trade.<sup>7</sup> After this latter fashion there arose the famous corporation which brings this survey to a close.

<sup>1</sup> Under its Act (39 & 40 Geo. III., c. 47, s. 38) it purchased the Shadwell undertaking (*ante*, p. cxxvi. (9)) and by 47 Geo. III., c. 5, the East London business mentioned *ante*, p. cxxvii. (6). Both these were re-sold in 1807 to a new East London Waterworks Company (47 Geo. III., c. 72): see the confirmation of the arrangement by 48 Geo. III., c. 8.

<sup>2</sup> See the partitions in 1815 and 1817 described by Clifford, vol. ii., pp. 123-4.

<sup>3</sup> A *Collection for Improvement of Husbandry and Trade* (No. 1, dated 30 March, 1692). The list contains eight companies at first, and is gradually increased. Prices are seldom given for the whole list. Companies working under charter are, from June 15, 1694, distinguished by special type; those working under a patent, by an asterisk. In June 1694 he describes company promotion, stocks and shares, put and call options, etc.; on July 20 he appraises the prospects of the various companies.

<sup>4</sup> Petitions for charters at this time include a proposed Royal Corporation for Setting Poor on Work (*Petition Entry Books*, 235, p. 128), Channel Islands Linen and Paper (p. 161), Merchants Trading to the N.W. parts of America (p. 161; see *Acts of the Privy Council (Colonial)* 1680-1720, pp. 189-190), *Company for Recovery of Wrecks in England* (*P. E. B.* 235, p. 182), Glassmakers (p. 200, cf. p. 442 (Estcourt's)), Company for Negotiating Money in England (p. 201), Silk Throwsters (p. 293), and Pitch and Tar Makers (p. 317; cf. the Pennsylvania project discussed in *Acts of the Privy Council (Colonial)* 1680-1720, pp. 254, 464-9).

<sup>5</sup> Cf. *ante*, pp. xc., cxii.

<sup>6</sup> For example, 6 Geo. I., c. 18 (*ante*, p. cxix. (8)), as to which see Lindley, L.J., in *Elve v. Boyton*, [1891] 1 Ch. at p. 507.

<sup>7</sup> See *ante*, pp. liv., cxv., cxvi.

The South Sea Company owed something both to the projector and the statesman. The Treaty of Utrecht seemed to promise exploitation of the fabled riches of South America ; there were slaves, too, to be carried and whales to be caught. Could the holders of over nine millions of floating debt be induced to become shareholders in a new chartered company with a guarantee of substantial interest, the government might obtain the right to redeem in a certain period this hitherto unfunded obligation. Accordingly an Act was passed, and, as authorised by the Act, a charter was signed.<sup>1</sup> All persons ' interested in or intitled unto any of the bills, tickets, debentures or certificates, or other public debts, deficiencies or sums of money intended to be provided for by the said Act,' and subscribing and making the same part of the corporate capital stock, were incorporated as the *Governor and Company of Merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the Fishery*.<sup>2</sup> The right of exclusive trade and other rights recall the East India and Africa Companies.<sup>3</sup>

France shared this splendid vision of a chartered company combating the dragon of national bankruptcy. Called in by her, John Law prescribed his system for simplifying taxation, multiplying money, reviving trade and colonisation, paying off debt and regenerating a nation. First founding a note-issuing bank, Law proceeded to create the great *Compagnie d'Occident* for the monopoly of the Louisiana trade.<sup>4</sup> Gradually it absorbed its contemporaries which traded to Africa, to China and the East : it undertook the farm of tobacco, of the mint and of indirect taxation. Renamed the *Compagnie des Indes*, it began to attract the speculator. Finally it applied itself to liquidate the French national debt by lending the State at three per cent. a huge sum with which the holders of *rentes* might be paid off.<sup>5</sup> But neither in France nor in England was the fabric of national solvency to be rebuilt in a day.

In England the South Sea Company applied itself, less comprehensively and with less of system, to a similar task. Irredeemable annuities

<sup>1</sup> Statute 9 Anne, c. 21 : *Patent Rolls*, 10 Anne pt. v.

<sup>2</sup> *Ibid.*

<sup>3</sup> Power to search and seize unlicensed ships and goods, royal crews having a right to one third of their prizes. Interlopers to be brought home for prosecution. Authority to govern plantations, raise forces, and have Courts of Judicature, *as post*, pp. 177, 191. Provision for parsons (to learn Spanish, Portuguese, and the native speech), ship's chaplains and schoolmasters,

as *ante*, pp. liv.-lv. Islands, cities, forts, mines, &c., to be held at an annual rent of 1 oz. of gold if demanded. A Governor, Sub-Governor, and Deputy-Governor (holding £5000 each), thirty Directors (holding £3000): £1000 to carry one vote: if votes equal, decision by lot.

<sup>4</sup> See Bonassieux, *Grandes Compagnies de Commerce*, pp. 377-381.

<sup>5</sup> *Ibid.*, pp. 275-6. See, generally, *Cambridge Modern History*, vi. c. 6.



were to be converted into redeemable South Sea stock which would bear a lower rate of interest ;<sup>1</sup> the public debt was to be consolidated, diminished, and even entirely discharged. For the privilege of working this transformation the company had to offer three and a half millions, and presently four millions more. Nevertheless its stock soared upwards.<sup>2</sup> Before the crash came, the company seems to have instigated a campaign against contemporaries which had offered rival attractions to the speculator.<sup>3</sup>

In April 1720, a Committee reported to the House of Commons its investigations into some twenty-two recent subscriptions (amounting together to nearly forty million pounds of capital) for fisheries,<sup>4</sup> insurance, and other projects.<sup>5</sup> It had inquired into all undertakings for purchasing joint stocks and obsolete charters, and had examined the agents and managers of the subscriptions. The Elizabethan mining corporations, as we know, had taken to marine insurance, issuing policies under their corporate seal with the encouragement of counsel's opinion.<sup>6</sup> According to the evidence of a governor, no member was liable to pay any losses in his private capacity ; but a member, as member, was obliged to pay any calls made by the company. Asked what the purchase of the charters had cost, he replied that the charters had not been purchased, but the shares of old proprietors were bought up<sup>7</sup> and there were not above two or three of the old proprietors remaining. The merchants of London and Bristol petitioned against this misuse of charters, and the Attorney-General agreed it was illegal and unwarrantable and a dangerous precedent. The corporations being apparently extinct, and there being doubt of the due election of those who pretended to be members, he advised *Scire facias* and *Quo warranto* proceedings.<sup>8</sup> The Governor of the Lustring Company<sup>9</sup> deposed that the promoter of an insurance scheme had been 'up and down with them about buying the Lustring charter, but that it was not sold.'<sup>10</sup>

<sup>1</sup> See statute 6 Geo. I., c. 4.

<sup>2</sup> See the graphic chart of fluctuations included by Dr. Scott in his vol. iii., and the general account, pp. 288-360. The exclusive trading right was repealed by 47 Geo. III., sess. 1, c. 23. The last South Sea annuities were redeemed or commuted by 16 and 17 Vict., c. 23.

<sup>3</sup> See *ante*, p. cii. ; Collyer, *Partnership* (1840), pp. 722, etc. For a list of the promotions of 1719-1720, see Scott, iii., pp. 445-458.

<sup>4</sup> See *ante*, p. cvii. (5).

<sup>5</sup> *Commons' Journals*, xix, p. 341.

<sup>6</sup> See *ante*, p. cxx. Sir Robert, afterwards Lord, Raymond was one of the counsel.

<sup>7</sup> One hundred and twenty-four shares were bought at 23*l.* 8*s.* 6*d.* each : *Commons' Journals*, xix., p. 344.

<sup>8</sup> *Ibid.*, p. 345.

<sup>9</sup> *Ante*, p. cxi.

<sup>10</sup> *Commons' Journals*, xix., p. 348. He admitted the company had enlarged its capital, but denied that this was for insurance (see *ante*, p. cxiii.).

The York Buildings Water Company had dabbled in forfeited estates in Scotland.<sup>1</sup> This *ultra vires* action was also censured.<sup>2</sup> Finally the House dismissed these enterprises with the resolution that 'the subscribers, having acted as corporate bodies without any legal authority for their so doing, and thereby drawn in several unwary persons into unwarrantable undertakings, the said practices manifestly tend to the prejudice of the public trade and commerce of the kingdom.'<sup>3</sup> In this spirit the so-called Bubble Act was soon afterwards passed, in which the South Sea Company's position was specifically saved. Thereafter all undertakings to the prejudice of trade and all subscriptions or transfers of shares relating thereto, all acting or presuming to act as a corporation, transferring of shares or raising of capital stock without the authority of statute or charter, all acting or pretending to act under any charter which had been formerly granted for some other purpose<sup>4</sup> or which had become obsolete,<sup>5</sup> was deemed illegal, void and a public nuisance.<sup>6</sup> Thus the genuine charter reigned supreme.

## XVII

The stream of corporateness flows at some periods more freely than at others; there are waves of City companies, of hospitals, or of free grammar schools, and with the accession of a new sovereign comes a flood of confirmations and extensions. But there are also periods of restriction, as in the last years of the reign of Charles II., when Jeffreys, with the *Quo warranto*, 'made all the charters, like the walls of Jericho, fall down before him,' and 'returned laden with surrenders, the spoils of towns.'<sup>7</sup> The City of London itself was attacked on a charge of levying money under an illegal by-law and making a scandalous and libellous petition.<sup>8</sup>

<sup>1</sup> See *ante*, p. cxxvi. Fresh subscriptions raised for this purpose in 1719 offered a preference to subscribers to the Mines Royal scheme in proportion to their holding therein (see advertisement cited in Walford, *Insurance Cyclopædia*, i., p. 115).

<sup>2</sup> 'Though the power therein given [i.e. by statute] to purchase lands is not by express words restrained to any particular annual value, yet by a reasonable construction the exercise of that power ought to be governed and limited by the purposes for which the corporation was erected, and cannot be understood to give authority to that corporation (supposing it to exist) to purchase lands of what value soever and for purposes wholly

foreign to the ends of that incorporation' (*Commons' Journals*, xix. p., 349). See *L. Q. R.*, xxvi., pp. 320, &c., as to possible limitations of such corporate powers.

<sup>3</sup> *Commons' Journals*, xix., p. 351.

<sup>4</sup> Cf. *ante*, pp. cxx., cxxx.

<sup>5</sup> Void for non-user, abuser, or lack of making lawful elections: cf. *ante*, pp. xxiv., cil., cxiii. (7).

<sup>6</sup> 6 Geo. I., c. 18, ss. 18, etc. (repealed by 6 Geo. IV., c. 91). See Lindley, *Companies*, p. 180, and *ante*, p. xx.

<sup>7</sup> North, *Examen*, p. 626. For the effect in the City and form of surrender, see Herbert, *Livery Companies*, i., pp. 212-219.

<sup>8</sup> Cobbett, *State Trials*, viii., p. 1039.



The conclusion may have been foregone, but the citizens defended themselves stoutly with arguments which throw light on contemporary views about corporations. They pleaded that 'no act or deed or by-law made by the Mayor, Aldermen and Common Council is the act or deed of the body corporate.'<sup>1</sup> Corporateness was 'but a name, an *ens rationis*, a thing that cannot be seen and is no substance; and for this name or corporation 'tis impossible they can do or suffer any wrong.'<sup>2</sup> 'What judgment shall be given against them in their corporate capacity? What? It shall be that *suspendatur per collum corpus politicum*? And then what execution shall be done upon that sentence? What? Must they hang up the common seal?'<sup>3</sup> If individuals had offended, let individuals be punished. 'I pray,' broke in the Lord Chief Justice, 'do you take it that a corporation can commit any corporate act or no?' It was strange, he added, a corporation should commit a fault and not be punished for it.<sup>4</sup> In the end, for all its alleged incapacity to sin and suffer, the City was punished. No doubt it had acted corporately. It was not even as if the Court had been asked to hold a railway company liable for the wrongful act of one of its porters; it was as though the whole body of shareholders in a railway company had met and formally passed a resolution for a wrongful act.<sup>5</sup>

The judgment in the City of London case may have been warped by politics, but the result of the trial must be accepted when the corporate person suffers daily, like any other person, for the acts of his agents. Thanks to this principle of vicarious responsibility, English law need not theorise about corporate personality. Against the City of London, however, the Attorney-General entered where later lawyers have feared to tread. Finding 'nowhere distinctly put in our books' the question what acts of members, and of what number of them, will forfeit the whole franchise, and observing that 'the Civilians do largely treat upon these questions,' he cited a fourteenth century authority who explained the corporate person as *persona ficta fictione juris*.<sup>6</sup> Elsewhere Mr. Attorney, making merry over the Recorder's defence of a City 'invisible, immortal, impeccable

<sup>1</sup> *Ibid.*, p. 1077.

<sup>2</sup> *Ibid.*, p. 1137. Cf. Brian, C.J., in 1476 (Y. B. 15 Ed. IV., i., p. 2) *home navera brieve de trespas vers le Maire et le Comminaltie*.

<sup>3</sup> Cobbett, *State Trials*, viii., p. 1138. The elusiveness of collective persons is attacked, *ante*, p. liii.

<sup>4</sup> Cobbett, *State Trials*, viii., p. 1146.

<sup>5</sup> Cf. Lord Bramwell's remarks, 11 App. Cas., at p. 251.

<sup>6</sup> *Ibid.*, p. 1175. *Sed licet non habent veram personam, tamen habent personam fictam fictione juris. Et ideo dicit lex quod municipium curiae et societatem personae sustinent, et sic eadem fictione animam habent et delinquere possunt et puniri* (Oldradus de Ponte, *Consilia*). Sir F. Pollock has shown how little the common law received the fiction theory; *Gierke Festschrift*, p. 105: *L. Q. R.*, xxvii., p. 219.

and therefore impatient,'<sup>1</sup> argued for reality rather than fiction. 'A corporation is every whit as visible a body as an army; for though the commission or authority be not seen by everyone, yet the body united by that authority is seen by all but the blind.' 'It seems strange and almost beyond all excuse that the Recorder of London should never have seen that great body politic assembled—unless he will excuse himself that he is the mouth of the City, and not the eyes.'<sup>2</sup>

The 'body politic assembled'—that, on the whole, is the picture which the charters of our companies present. With a few exceptions to be mentioned later, the corporateness is aggregate rather than official or institutional. The corporate name, a matter of meticulous formality, is significant. By it the body of mortal members has perpetual succession, holds property, appears in Court, and (with additional help from the corporate seal) authenticates its deeds;<sup>3</sup> the name is the 'knot of its combination,' 'the very being of its constitution.'<sup>4</sup> Now the name of most corporations indicates multitude. It represents no abstract John Company, but is a catalogue of members who are too numerous to be mentioned one by one; it describes an organisation. The head is mentioned first,<sup>5</sup> then the managers,<sup>6</sup> then the residue or generality of members. The name represents them 'visible as an army,' and requires the constant plural 'they and their successors,'<sup>7</sup> a plural which is still often given to a company in modern pleadings. Distinctions between plurality and singleness were drawn in the fifteenth century. Where the title was threefold, *Mayor, Sheriffs, and Commonalty*, it might not matter if one of the Commonalty was in prison, though if the majority of the Commonalty were in prison it made a difference.<sup>8</sup> But where a body was corporately named the *Chapter* it was an entire body, and, if any one of the Chapter was in prison, the chapter could not make a valid deed.<sup>9</sup>

<sup>1</sup> Cobbett, *State Trials*, viii., p. 1160; cf. at p. 1161, 'some corporation in Utopia where the citizens neither eat, drink, nor die'; and Pollexfen's words, *ante*, p. liii.

<sup>2</sup> Cobbett, *State Trials*, viii., p. 1156.

<sup>3</sup> Brian, C.J., observed in 1476 that if the abbot and all the monks individually made a deed with all their names, and sealed it with the convent's seal, it would not bind their successors unless the corporate name were used. Littleton, J., added that the same was true of the mayor and commonalty of a town (*Y. B.* 15 Ed. IV. Mich., 1, pl. 2). One might almost compare *Salomon v. Salomon & Co.* [1897], App. Cas. 22.

<sup>4</sup> Blackstone, i. 475.

<sup>5</sup> Master, Governor (cf. *magister sive*

*gubernator*, Cirencester charter, *Patent Rolls*, 4 H. IV. m. 25). President or Treasurer (*post*, p. 52, cf. the Inns of Court). Cf. the diversity of collegiate headships at Oxford and Cambridge.

<sup>6</sup> Assistants (as in gilds and livery companies, see Herbert, *Livery Companies*, i., pp. 53–5; see *ante*, p. xxx. (3), and *post*, p. 101 (1)), Directors, Committees, etc., with Consuls, Wardens, etc.

<sup>7</sup> See an exception, *post*, p. 59.

<sup>8</sup> See *Y. B.* 21 Ed. IV., Mich. 70.

<sup>9</sup> *Y. B.* 21 Ed. IV. Pasch. 28a. Where a body was organised as head and members, if you cut off the corporate head, the corporate man was dead (*ibid.*, Mich. 70); see *ante*, p. xxiv. (4).



It is true that in the following charters the corporate name is not always plural. After the sentiment of fraternity has yielded to the desire for dividends, we find such titles as the *English Company trading to the East Indies*, or, at the same date, the *General Society*.<sup>1</sup> Approaching the *Amicable Society* and the *Charitable Corporation*, we perceive something which Dr. Gierke would perhaps classify as *Stiftung* rather than *Genossenschaft*. This type tends, like a hospital, to represent pious objects rather than human agents. For a parallel to these headless titles in the neuter singular, there is the *libera scola grammaticalis Regis Edwardi Sexti*, or the earlier *collegium*. Whether influenced by Italian notions or not, the pious founder naturally gives an abiding name to his work; and that name (like the title of an incorporated 'province'<sup>2</sup>) often indicates the foundation rather than the human beings associated therewith. Thus Oriel College is at first named *Domus seu Aula Beatae Mariae*,<sup>3</sup> and Winchester *Sancte Marie Collegium*.<sup>4</sup> But even in collegiate foundations, where the college itself has a *certum nomen imperpetuum*, it is gradually recognised that the men belonging thereto, who are to hold lands in succession and to sue and be sued, must have a perpetual name too.<sup>5</sup> Therefore, when Henry VIII. erected a *collegium perpetuum* of doctors in and near London, he gave power to plead and sue *per nomina Presidentis et collegii sive communitatis facultatis medicine*.<sup>6</sup> This body, which followed an Italian model,<sup>7</sup> stands on the line between college and gild. Our trading companies remained on the gild side; Adrian Gilbert and his fellow-venturers to the North-West were styled *Colleagues*, not a *College*.<sup>8</sup>

<sup>1</sup> *Ante*, pp. liv., lv. Cf. African Companies, *post*, pp. 175 (and note), 179, 189, and 198.

<sup>2</sup> See *ante*, pp. lxxxvi., lxxxvii. (8).

<sup>3</sup> *Patent Rolls*, 4 Ed. III., pt. ii., m. 35. Cf. *Aula Reginae de Oxonia* (*P. R.* 14 Ed. III., pt. iii., m. 9), *Aula Beatae Mariae Magdaleneae* (*P. R.* 26 H. VI., pt. ii., m. 33); and, in 1264, *Domus Scolarium de Merton* (Leach, *Educational Charters*, p. 171).

<sup>4</sup> *Ibid.*, p. 324. On the other hand, Eton is named *Prepositus et Collegium Regale* (*ibid.*, p. 408), with no single separate name for the college itself; cf. All Souls, *Custos et Collegium*; King's, *Rector et scolares*, etc. Cf. the plural at Peterhouse in 1285, *Scolares Episcoporum Eliensium* (Leach, p. 227).

<sup>5</sup> Their separate naming for this purpose is common from the time of Henry VI. onwards. With the free grammar schools

'Governors of possessions, revenues and goods' are nominated: cf. the Savoy Hospital grant, Rymer, xiii. 333. The two old Universities have a statutory style as *Chancellor, Masters and Scholars*, under 13 Eliz. c. 29; but the latest types are named simply *The University of Sheffield*, etc.

<sup>6</sup> *Patent Rolls*, 10 H., VIII. pt. ii. (see statute 14 & 15 H. VIII., c. 5).

<sup>7</sup> *Nos . . . bene institutarum civitatum in Italia . . . exemplum imitati* (*ibid.*).

<sup>8</sup> *Ante*, p. xxxvii. The grants of the so-called College of Heralds mention no college, the heralds being named severally (*Patent Rolls*, 1 Ric. III., pt. iii.; 1 & 2 P. & M., pt. ii.). The Honourable Artillery Company has a plural gildlike title (*P. R.* 29 H. VIII., pt. v.), though its American counterpart of 1638 is named *The Military Company of the Massachusetts*.

Of official corporateness the *Fire Office* is only nominally an example. It was in reality merely a privileged partnership, like the earlier Post Office.<sup>1</sup> The latter subsequently sustained an official capacity comparable to that of king and parson, who put on the robe of corporateness because it never wears out. As an affair of the State, the Post Office now has a single responsible representative like other public departments.<sup>2</sup> Not otherwise the East India Company has made way for a Secretary of State.<sup>3</sup> A fellowship, nevertheless, still controls our pilots and lighthouses.

Much has been expected of corporateness. Cromwell, for example, wanted it to solve the problems of vagrancy and poor relief,<sup>4</sup> and Charles II. to quell disorder at Tangier.<sup>5</sup> It served religion and charity,<sup>6</sup> honoured learning,<sup>7</sup> and encouraged various activities.<sup>8</sup> In modern business the Companies Acts have made the charter appear a cumbersome anachronism. In industrial organisation new unions and federations divert attention from the ancient corporateness which existed *pro meliori gubernatione*,<sup>9</sup> though men still value the power to unite for the maintenance of corporate discipline and professional standards.<sup>10</sup> In

<sup>1</sup> See undertakings of 1653 (*S. P. Dom.*, Interreg. xxxvii. 148) and 1679 (Scott, iii., p. 43). For the office *quâ* office, see Rymer, xix. 649 (Wetherings), *Patent Rolls*, 12 Car. II., pt. xxviii. (Bishop), and 15 Car. II., pt. ix. (O'Neale).

<sup>2</sup> For the purpose of holding land the Postmaster-General is a corporation sole (8 Ed. VII., c. 45). See Maitland, *Collected Papers*, iii., pp. 266-270. In *Willion v. Berkley* (1561: Plowd., p. 234) is a suggestion that the country is a corporation, with king and subjects as head and members. It might have served.

<sup>3</sup> See 21 & 22 Vict., c. 106.

<sup>4</sup> *Acts and Ordinances of the Interregnum*, i., p. 1042, ii., p. 104, partly adopted by 14 Car. II., c. 7. Compare *post*, note (6).

<sup>5</sup> *Patent Rolls*, 20 Car. II., pt. viii.

<sup>6</sup> The Corporation for Propagation of the Gospel in New England (*Acts and Ordinances of the Interregnum*, ii., p. 197) was followed by *Patent Rolls*, 14 Car. II., pt. xi. Cf. *P. R.* 13 W. III., pt. i., Society for Propagation of Gospel; *P. R.* 30 Car. II., pt. vii., Corporation for Relief of Poor Widows and Children of Clergymen; *P. R.* 4 Jac. II., pt. vi., French Ministers of French Congregations of Protestant Strangers in London (with which compare

the German grant, *P. R.* 4 Ed. VI., pt. v.); and Queen Anne's Bounty, *P. R.* 3 Anne, pt. iv.

<sup>7</sup> Cf. the Royal Society (*Patent Rolls*, 15 Car. II., pt. xi.) and later academic bodies.

<sup>8</sup> Modern examples include the charters of the Gas Light and Coke Company (1812), Polytechnic Institute (1838), Royal Mail Steam Packet Co. (1839), Crystal Palace Co. (1853), and the Boy Scouts' Association (1912).

<sup>9</sup> Survivals include the goldsmiths' assay (see 7 & 8 Vict., c. 22) and the gun-makers' tests (see 31 & 32 Vict., c. cxliii.); copyright registration by the Stationers (see 5 & 6 Vict., c. 45, ss. 11, 24) is no more. The corporate supervision of Thames Watermen (see statutes recited in 7 & 8 Geo. IV., c. lxxv., and Port of London Act, 1908, s. 11) is not forgotten. I find only one Victorian charter (to the Glovers in 1898) of the livery company type.

<sup>10</sup> Cf. charters of Royal College of Surgeons (1800), Civil Engineers (1828), Law Society (1831), Architects (1837). The Society of Incorporated Accountants and Auditors (see *L. R.* [1907] 1 Ch. 489 and the Society's *Year Book*) shows how much has been attained under the



its heyday industrial self-government by fellowship was a more national method than supervision by an officer of the Crown.<sup>1</sup> In so far as these alternatives were in conflict, corporate control triumphed. The early guildsmen, with their oaths and by-laws, their meetings and elections, had handed down an immemorial tradition of autonomy. Into the framework which contained gild and borough, mercers and merchant venturers, it was a simple matter to fit the chartered companies.

Companies Acts without a charter. The non-corporateness of barristers was denounced in 1635 (see *Lincoln's Inn Black Book*, ii. p. 333).

<sup>1</sup> For example, the King's Alnager (see stat. 25 Ed. III., c. i.; cf. *S. P. Dom.*, Eliz., col. 48, Alnagers of New Draperies, and *Patent Rolls*, 3 Jac. I., pt. vi., Lennox). For soap, madder, and other surveyorships,

see *ante*, pp. lxiii., lxxv. (6), lxxvii. (3), lxxix., etc.; and cf. the surviving Censorship of Plays. See also *P. R.*, 13 Jac. I., pt. xxi., Boyd for coal; 12 Car. I., pt. xxi., Cupper for iron; and *Hist. MSS. Comm.*, 3rd Rep., App., p. 35, Bell for lead. Dr. Cunningham deals with the Stuart reliance on officials, *Growth of English Industry and Commerce*, ii., p. 298.

# SELECT CHARTERS OF TRADING COMPANIES<sup>1</sup>

## MERCHANTS OF ANDALUSIA<sup>2</sup>

(Patent Rolls, 22 Hen. VIII., pt. ii.)

HENRY THE EIGHT etc., To all and singuler oure subiectes marchauntes and others exerceyng and using the traffique and feate of Marchandise within the Realmes Domynions and Signories of Ispayne in the parties of Andeluzia, Greting :

*Forasmuche* as We be credably informed by the reporte of oure trusty seruant *William Pepwell*, and other our louyng subiectes that ye by oon assente and consente for youre better gouernaunce relieff and socours in thos parties and redressing of soche wronges and iniuries as hertofoer hath ben and hereafter myght be apponed<sup>3</sup> and leyde unto youe by diuerse and sundry unlawfull exaccions imposicions and other newe custumes in thos parties, as also for the maynteyning of a Chapell newly edified at Saynt Lucars de Barowmeda<sup>4</sup> to thonour of God and the Holy Martir Seynte George,

We aduertysing in oure selfe youre porposes myndes and intentes in this behalfe to be right lawdable and requisite and the same very necessary to be contynued and maynteyned which We doo not only approue and ratifie but woll youe contynue and proceyid in youre saide goode myndes and purposes to the establishment and perfeccion therof,

<sup>1</sup> Paragraphing, punctuation, and italic and black lettering have been introduced in editing the text. The spelling of the first grant has been preserved for illustration; that of the subsequent grants is modernised; proper names are unaltered.

Square brackets are used to mark the abbreviation of words repeated, or of formal passages already printed at length.

<sup>2</sup> See Introduction, *ante*, p. xxiii. For charters of Elizabeth and James I. to Merchants trading to Spain, see *ante*, pp. xxiii.-xxv., and *post*, pp. 62 (2), 67 (1).

<sup>3</sup> Put to, applied. See *New English Dictionary*, *s.v.* 'appose.'

<sup>4</sup> San Lucar de Barrameda, a coast town at the mouth of the Guadalquivir.



*Wherfor*, as well for thonour that We bere towards all myghty Gode and the saide Blissed Martir Seynt George and mayntenance and supportacion of the premissis as at the humble pursute labour and requeste of our saide seruant and subiectes and for the tender loue zele and fauor whiche We bere to oure saide subiectes of this oure Realme of Inglande Wales Irelande and elleswhere under our dominion and abeysaunce and for the common wele profite and aduancement of the same oure subiects, We haue geuen and graunted to oure saide subiectes merchaunts and factours to marchauntes and to their successours forever,

That they once euery yere or oftener yf nede be from hensforth wene they be in thos parties in a reasonable and compitente number within the cities of Cyuyle and Cales<sup>1</sup> or within the town of Seynte Lucars de Barowmeda or Seynte Mary Porte<sup>2</sup> shall congregate and assemble theme selves together to the place conuenyente ande necessary, and ther amongst theme selves by thaduisse and consente of oure subiectes merchauntes dwelling within our Citye of London and of ii merchauntes of oure towne of Bristowe and too of Southampton haunting thos parties for feate of marchaundises to ellecte and chose a Counsailour or Counsailours, whiche Counsailour or Counsailours and ther successours so by youe chosen shall haue for his or ther paynes and labours for the exercieyng of the same rowmes<sup>3</sup> such benefittes proffitts auctorities aduailles<sup>4</sup> and aduantages as by youe shalbe thought necessary reasonable and conuenyent, and the same Counsailour or Counsailours and ther successours to amoue whene and as often as ye shall thinke necessary and in his or there place or places to ellecte and chose other as ye shall se cause why from tyme to tyme :

And also We geue and graunte to the said Counsailour or Counsailours and Feliship aforsaide and to their successours auctoritie to ellecte amongst theme xii aunciente and experte persones merchauntes oure subiectes by ther discrecions to be Assistauntes to the said Counsailour or Counsailours and to ther successours, and as any of the saide xii persones shall die or departe thens to ellecte other able persones in their romes and places :

To the whiche Counsailour or Counsailours and Assistantes for the tyme being We geue full poure and auctoritie to gether leuye and receyue of oure said subiectes and of euery of theme their factours attornes repayingr thether for feate of merchandise and of their shippes such imposicions as by the same Counsailour or Counsailours Assistantes

<sup>1</sup> Seville and Cadiz. (A copy in B.M., Vesp. C, VII. 55, has 'Cades'.)

<sup>2</sup> Three leagues from San Lucar (see Hakluyt, ix., p. 444). on the Gulf of

Cadiz, opposite the island.

<sup>3</sup> Rooms, places (cf. *post*, p. 9).

<sup>4</sup> Avails, benefits.

and Feliship shalbe thought necessarie requisite and behofull, and the same impositions to be leuyed aswell upon such goodes as shalbe conueyde oute of this oure Realme into thos parties as oute of thos parties into this oure Realme :

And such oure subiectes using ther the trade of merchaundise as is aforsaide refusing to paye the saide monie so by youe rated to compell them therunto by penaltie or otherwyse as by the discrecion of the saide Counsaillour or Counsaillours and Assistentes and of ther successours shalbe thought mete and conuenient :

Furthermore we geue and graunte to the saide Counsaillour or Counsaillours and Assistents aforsaide and to ther successours for the politique rule and gouernaunce of the generalitie of the same full poure and auctoritie for to make statutes and ordenaunces for ther generall welthes and the same at ther pleasures to alter and chaunge or to reuocate frustrate and to make voide as the case shall require, And all penalties expressed and mencioned in the saide statutes and ordinaunces to leuy or cause to be leuyed and receyued of thoffenders and transgressours of the same to be imploide to thuses aforsaide, *Provided all weye* that yf therbe any fewer in the nomber presente of the makying of any acte or ordinaunce then the saide Counsaillour and Counsaillours and viii persones Assistentes, orelles if the saide actes or ordinaunces or any of theme be agenste the publique welthe of oure saide subiectes, that then the same to be of non effecte or force, *Provided also* that noo impositions be made or leuied nother nowe nother hensforth but such as shalbe fyrste thought reasonable by viii or x merchaunts here in London of the chieff occupiers into Andeluzia aforsaide and by ther wryting affirmed :

Furthermore We straitely charge and commaunde all and euery oure subiectes merchautes maisters maryners and others frequentlyng and haunting the feate of merchandise and that hereafter shall frequente and haunte thos parties that unto the saide Counsaillour or Counsaillours and Assistants and to ther successours they be alwayes ayding counsailling and helping from tyme to tyme as shall apperteyne :

*In cuius etc.*

*T. etc. apud Westm. primo die Septembr.  
per breue de priuato sigillo etc.*



MINES ROYAL<sup>1</sup>

(Patent Rolls, 10 Eliz. pt. v.)

ELIZABETH *by the Grace of God etc.* To all unto whom these presents shall come, Greeting :

Where We by our Letters Patents bearing date at Westminster the tenth day of October in the sixth year of our reign<sup>2</sup> have, for the considerations therein mentioned, given and granted full power licence and authority to *Thomas Thurland*, Clerk, one of our Chaplains and Master of our Hospital of the Savoy, and to *Daniel Houghsetter*, a German born, their heirs and assigns and every of them forever, by themselves their servants labourers and workmen or any of them to search dig open roast melt stamp wash drain or convey waters or otherwise work for all manner of mines or ores of gold silver copper and quicksilver within our counties of York Lancaster Cumberland Westmorland Cornwall Devon Gloucestershire and Worcestershire and within our Principality of Wales or in any of them,

And the same to try out convert and use to their most profit and commodity and the commodity of every of them forever, as well within our own lands grounds and possessions as also within the lands grounds and possessions of any of our subjects set lying or being within our said counties and principalities or in any of them, without any let or perturbation of Us our heirs or successors or of any other person or persons whatsoever, together with divers other powers authorities licences privileges benefits and immunities specified in the said Letters Patents for and concerning the effectual obtaining and enjoying of the premises, as by the same Letters Patents amongst divers other clauses and articles therein contained more plainly and at large it may and doth appear ;

And whereas our pleasure intent and meaning in our said Letters Patents was that, for the better help and more commodity of the said *Thomas Thurland* and *Daniel Houghsetter* and their several assigns, they and every of them might from time to time and at their pleasure grant convey and assign parts and portions of the said licences privileges powers authorities benefits and immunities, And thereupon their several assignees have sithens the making of our said Letters Patents for divers good considerations<sup>3</sup> granted assigned and conveyed to our

<sup>1</sup> See Introduction, *ante*, pp. xciii.-xcvii.  
A second charter to this Society is noted below at p. 15.

<sup>2</sup> *Patent Rolls*, 6 Eliz. pt. iii. See *ante*, p. xciv.

<sup>3</sup> See *ante*, pp. xciv.-xcv.

right trusty and right wellbeloved Cousins and Counsellors *Wyllyam Earl of Pembroke* and *Roberte Earl of Leycestershire*, And to our trusty and wellbeloved *James Lord Mountioye* and to our right trusty and wellbeloved Counsellor *Sir Wyllyam Cecyll* Knight, our principal Secretary, and to *John Tamworth* and *John Dudley*, Esquires, *Leonell Duckett*, Citizen and Alderman of London, *Benedicte Spynola* of London, merchant, *John Lover*, *Wyllyam Wynter*, *Antony Duckett*, of the County of Westmorland, Esquires, *Roger Wetherall* of Lincoln's Inn in the County of Middlesex, gentleman, *Richard Spryngham*, *Jefferey Duckett*, *Richard Barnes*, *Wyllyam Patten*, *Thomas Smyth*, *Wyllyam Byrde*. *Danyell Ulstett* a German born, *Mathewe Felde*, *George Nedham* and *Edmond Thurlande*, divers parts and portions of the licences powers authorities privileges benefits and immunities aforesaid,<sup>1</sup>

By force whereof the said *Thomas Thurland* and *Danyell Houghsetter* and their said assignees by virtue of our said Letters Patents and by the skilful direction of the said *Danyell Houghsetter* have travailed in the search work and experiment of the mines and ores aforesaid to their very great charge and expenses and have now brought the said work to very good effect, whereby great benefit is like to come to Us and this our Realm of England, which also will the rather come to pass if the persons now and hereafter having interest in the privileges aforesaid might by our grant be incorporated and made a perpetual body politic, thereby to avoid divers and sundry great inconveniences which by the several deaths of the persons abovesaid or their assigns should else from time to time ensue,

*Know ye therefore that We*, minding and carefully intending the furtherance and advancement of the said Mineral Works so prosperously and with great charge begun, to the likely benefit and commodity of this our Realm of England and subjects of the same, are not only well contented and pleased that the said *Thomas Thurland*, *Danyell Houghsetter*, their heirs and assigns and every of them and the assigns of them and of every of them shall enjoy have and use all the authorities privileges grants liberties and licences contained and specified in our said Letters Patents above remembered, according to the clauses articles grants and covenants in the same contained, which We for Us our heirs and successors do by these presents ratify and confirm, And do will the same in all respects to be construed and taken beneficially in the favour of the said *Thomas Thurland*, *Danyell Houghsetter*, their heirs and assigns and of the assigns of them and of every of them, But also for the better and

<sup>1</sup> See tabulated list of shareholders in *Elizabethan Keswick*, p. 3 (*ante*, p. xciv. (4)).  
John Lover, more properly Hans Loner.

acted as London agent, Ulstett as Keswick agent, of the German firm of Haug (*ante*, p. xciv.).



more advancement of the said Mineral Works and also to prevent such inconveniences as might hereafter be a let or hindrance to the same, of our especial grace certain knowledge and mere motion have given and granted, and by these presents for Us our heirs and successors do give and grant, to the aforesaid *Wyllyam Earl of Pembroke* [and names as above with *Thomas Thurland* and *Daniel Houghsetter*] that they by the name of **Governor Assistants and Commonalty**<sup>1</sup> for the **Mines Royal**<sup>2</sup> shall be from henceforth forever one body politic in itself incorporate and a perpetual society of themselves both in deed and name :

And them by the name of Governor Assistants and Commonalty for the Mines Royal We for Us our heirs and successors do constitute make ordain incorporate name and declare to be a body politic corporate perpetual, and by that name to have succession and continuance for ever by these presents :

And that they and their successors shall and may from time to time forever have a common seal to serve for the affairs and business of the said [Corporation] :

And that they and their successors shall and may for ever be able persons in law as well to purchase obtain get have and enjoy to them and their successors for ever by the name aforesaid of the said *Thomas Thurland* and *Danyell Houghsetter* and their assigns or any of them and of the assigns of them or any of them and of every or any of them and of all and every other person and persons, all and singular the liberties licences powers authorities profits commodities and other things whatsoever by Us granted by our said Letters Patents or any part or parts thereof, as also to purchase obtain get or have to them and their successors of whatsoever person or persons bodies politic or corporate, in fee and perpetuity or for term of life or lives or for term of years or otherwise at their wills and pleasures, lands tenements rents reversions and hereditaments whatsoever they be, by the name of Governor Assistants and Commonalty for the Mines Royal, and by the same name shall and may lawfully alien grant let and set the same lands tenements rents reversions and hereditaments or any part thereof to any person or persons able in law to receive and take the same :

And that they by the name [as aforesaid] shall and may be able in law to sue and to be sued, to implead and to be impleaded, to answer and to be answered, to defend and to be defended, before whatsoever

<sup>1</sup> Here and elsewhere in the text (as late as 1638) the original spelling is *comminalty*. Of the many other variants the most

frequent are *commynalty* and *communalty*.

<sup>2</sup> The second charter slightly varies the title: see *post*, p. 15 (1); *ante*, p. xcvi. (5).

Judge or Justice temporal or spiritual or other persons whatsoever in whatsoever Court or Courts place or places and in all actions personal real and mixt and in every of them and in all assizes of novel disseisin<sup>1</sup> and also in all plaints suits quarrels affairs business and demands whatsoever they be touching or concerning the said Governors Assistants and Commonalty or the said liberties licences powers authorities profits commodities and immunities or the affairs and business of the same, in as ample manner and form as any other corporation or body corporate within this our Realm of England can or may do touching or concerning their lands tenements or goods or other their affairs or business :

And furthermore We for us our heirs and successors do by these presents grant unto the said Governors, Assistants and Commonalty and their successors that they shall and may have one Governor or two Governors of the said Society, and one Deputy or more Deputies to the said Governor or Governors at their will and pleasure, and six or more Assistants at their will and pleasure to assist and to be joined with the Governor or Governors of the said Society for the time being or his or their Deputy or Deputies, for the better government of the said Society and the matters things and causes of the said [Corporation] from time to time as need shall require :

And further We do make ordain and constitute by these presents the beforenamed *Lyonell Duckett* and *Daniell Houghsetter* to be the first and present Governors of the said Society, to have and enjoy the said office of Governors to the said *Leonell Duckett* and *Daniel Houghsetter* from the date of these presents until the first Monday in the month of May which shall be in the year of Our Lord God one thousand five hundred threescore and nine, and further if need so require, until one other Governor or two other Governors shall be chosen in their places that shall take upon him or them the said office or offices of the Governor or Governors of the said Society, And We do likewise make [etc., as above, *Anthony Duckett* and *Daniel Ulstett* first and present Deputies to the Governors for a similar term], And do likewise make [etc. as above], *John Tamworth*, *Thomas Thurlande*, *Benedicte Spenola*, *John Lover*, *William Wynter* and *Roger Wetherall*, [to be first and present Assistants for a similar term] :

And further We for Us our heirs and successors do by these presents grant to the said [Corporation] that they the said [Corporation] their successors and every of them shall and may from henceforth until by rules and ordinances to be made as hereafter is declared shall be

The framer of this clause (which follows Mary's grant to the Merchants for Discovery of Lands, *ante*, p. xxx.) apparently

shared Bracton's doubt whether the assize was real or personal (see Pollock and Maitland, ii., p. 570).



otherwise appointed, in places convenient and honest as well within our City of London as elsewhere within our Realm of England where the Governor or Governors of the said Society for the time being shall from time to time appoint, and after forever at such other place or places within our said Realm of England as by rules and ordinances hereafter from time to time to be made from time to time shall be appointed, assemble and meet together in good and decent order as well for the keeping of their Courts and for ordering their affairs business and things as also for elections from time to time to be made of their Governor or Governors and of his or their Deputy or Deputies and of the Assistants aforesaid or of any of them, and for the doing and executing of all and singular the powers and authorities and things by these our Letters Patents in any wise granted according to the purport and true intent hereof, and that after rules ordinances or laws by the most part of the said Governors Assistants and Commonalty in form aforesaid assembled made for their Assemblies and Courts aforesaid to be kept and for their said elections they or the most part of them or so many of them as by the said ordinances laws or rules or by any other ordinances laws or rules hereafter to be made and which from time to time shall abide in force shall be limited or appointed, shall and may yearly at such time and in such place as by ordinances laws or rules according to the tenor of these presents to be made shall be from time to time therefore limited or appointed, name elect and choose one sage and discreet person or two sage and discreet persons of the said Society at their liberty and pleasure to be the Governor or Governors of the said Society for one year ensuing and so long after the same one year until another Governor or two other Governors as the case shall require shall be duly elected and take upon him or them the room or rooms of the Governor or Governors of the same Society, And one or so many more sad and discreet persons of the said Society and Commonalty as by the like ordinances laws or rules shall be limited or appointed [to be deputy or deputies for the time appointed], And six or so many more discreet persons of the said Society and Commonalty [as similarly appointed, to be Assistants for the time appointed]:

And that if it shall fortune the said Governor or Governors Deputy or Deputies and Assistants or any of them before by these presents appointed, or which shall hereafter be elected or chosen as is aforesaid, to die or decease out of this transitory life before the end of the time for the which they shall be so elected and chosen as is aforesaid, That then and so often it shall and may be lawful to and for the said Governor or Governors Assistants and Commonalty for the time being or the most part of them or to so many of them as by ordinances laws or rules

hereafter to be therefore devised in form aforesaid shall be limited and appointed, to name elect and choose other discreet person or persons of the said Society or Commonalty at their liberty and pleasure to have and use the office room and place offices rooms and places of the said person or persons so deceased and to have use and exercise the same in the place or places of the said person or persons which shall so decease and during the time the said person or persons deceased should have had used or exercised the same room or place if he or they had lived:

Moreover We for Us our heirs and successors have given and granted and by these presents do give and grant unto the said [Corporation] that the said Governors and Assistants that now be by these presents nominated and appointed and the Commonalty aforesaid or the most part of them and the Governor or Governors Assistants and Commonalty for the Mines Royal that hereafter shall be or the most part of them or so many of them as by ordinances laws or rules hereafter to be devised in form aforesaid shall be thought meet and convenient, shall have full power and authority from time to time at all times hereafter to keep Assemblies and Courts for the good rule and government of all causes matters and things belonging to the said [Corporation], And at such of the same Assemblies and Courts which by laws rules or ordinances in that behalf so to be made according to the purport of these presents shall be limited or appointed, to make ordain establish and erect all such statutes acts ordinances and rules for admitting of more persons which have or shall be appointed to have for term of his or their life or lives at the least the benefit of such part of the said licences benefits and immunities as in these presents is hereafter expressed and in manner and form hereafter in these presents expressed to be member of the said body politic, and for the expelling and dismembering of such as shall be deemed unworthy to continue members of the said body corporate, And for the good and laudable demeanour and order of the Governor and Governors of the said Society from time to time for ever and of his and their Deputy and Deputies and of the Assistants of the said Society that now be or hereafter shall be, And also for the good government and order of the said Society and Commonalty and of every person of the said Corporation and of all and singular their causes affairs things and business from time to time for ever and for every other thing and matter whatsoever in these Letters Patents expressed or by the same referred to be ordered or directed by laws rules or ordinances hereafter to be made as to them shall be thought good meet convenient or necessary :

And the same statutes acts ordinances and rules or any of them at their will and pleasure at any such of their Assemblies and Courts as



by the rules ordinances or laws in form aforesaid to be devised shall be limited, to alter change revoke and make void in part or in all from time to time :

And further We for Us our heirs and successors as much as in Us is, will and grant by these presents unto the [Corporation which now is or hereafter shall be nominated, or such majority or proportion as shall be duly appointed, that they,] at such of their said Courts and Assemblies as in form aforesaid shall be limited, shall and may not only admit into the said Corporation and Society such and as many persons whether they be English or denizens aliens or strangers as by the statutes acts ordinances and rules aforesaid or any of them shall be prescribed or appointed, so that every such person so hereafter to be admitted shall either according to the tenor and true meaning of the statutes acts ordinances and rules in that behalf hereafter to be made as is aforesaid be appointed at or before the time of his admission to have for the term of his life at the least the benefit of a quarter of one four and twenty part of the licences powers authorities privileges benefits and immunities aforesaid, or else being admitted within one year now next ensuing shall be appointed as is aforesaid at or before the time of his said admission to have for the term of his life at the least the benefit of half a quarter of one four and twentieth part of the licences powers authorities privileges benefits and immunities aforesaid, or else being a gentleman and a freeholder of an estate of inheritance to his own use without condition in deed of lands and tenements within the Counties of Lancaster Cumberland and Westmorland or any of them of the clear yearly value of forty marks of lawful English money over and above all charges shall, according to the tenor and true meaning of the statutes acts ordinances and rules in that behalf to be hereafter made as is aforesaid, be appointed at or before the time of his admission to have for the term of his life at the least the benefit of half a quarter of one four and twentieth part of the said licences powers authorities privileges benefits and immunities and shall be admitted within the space of three years now next ensuing and not at any time after, But also shall and may minister to every such person so to be admitted an oath tending to the due performing and keeping of the rules statutes and ordinances in form aforesaid to be made, and a note of such admittance shall deliver in writing under their common seal to the person so admitted, which person and persons that shall fortune hereafter to be admitted in manner and form aforesaid into the said Society Commonalty and Corporation shall from the time of his or their admittance and oath taken in manner and form aforesaid be free of the same :

And that no person or persons which hereafter shall be admitted into the said Society in any other manner or form than is before expressed or contrary to the purport or true meaning of these presents shall in any wise be or be accounted any member of the said Society Commonalty or Corporation :

And that no person or persons which now be or hereafter shall be admitted into the said Society in manner and form [as aforesaid, having one quarter of  $\frac{1}{4}$  share as aforesaid or more,] shall alien renounce or depart with or be otherwise according to rules acts and ordinances in that behalf hereafter to be made as is aforesaid amoved avoided or excluded of or from his whole benefit or interest of and in the said licences and other the premises or of or from so much of the same as the residue of the same benefit or interest of or in the said licences and other the premises which shall remain to him during his life at the least shall amount and extend to the benefit of one whole quarter of one four and twentieth part of the said licences and other the premises, shall in any wise at any time after be or be counted to be any member of the said Society Commonalty or Corporation :

And that no person or persons which now be or hereafter shall be admitted into the said Society in manner or form [as aforesaid, having one half quarter of  $\frac{1}{8}$  share as aforesaid] shall alien relinquish or depart with [or be otherwise duly excluded as aforesaid from the said proportion], shall in any wise at any time after be or be accounted to be any member of the said Society Commonalty or Corporation, anything before in these presents contained or any acts rules or ordinances hereafter to be made to the contrary in any wise notwithstanding :

And also that the said [Corporation now or hereafter, or such majority or proportion as is duly appointed] at such of their said Courts and Assemblies as in form aforesaid shall be limited, may dismember and put out of the said Society and Commonalty such person or persons as they shall determine unworthy to be continued a member of the said Corporation :

And that the person or persons so put out or dismembered and whose dismembering shall be entered into the common book for registering the acts of the said Governor Assistants and Commonalty from time to time to be appointed shall no more without <sup>1</sup> new admission be or be accounted any member of the said body corporate Society or Commonalty :

And also that the said [Corporation] or as many of them as by their ordinances laws or rules in form aforesaid to be made shall be

<sup>1</sup> *Patent Rolls*, 'with.' The Society's pt. xxvi.) in the corresponding passage second charter (*Patent Rolls*, 2 Jac. I., reads 'without.'



authorised, shall and may from time to time at their pleasure keep ordinary Courts and Assemblies for to put the statutes acts ordinances and rules so to be made and remaining in force and not repugnant to anything contained in these presents in due execution, and to rule and govern according to the acts statutes ordinances or rules every person and persons being a member or members of the body politic or Corporation aforesaid, and all the ministers officers labourers and workmen of the said [Corporation], and to execute and do full and speedy justice to them and every of them in all their causes differences variances controversies and complaints within any our Realms Dominions or jurisdictions among themselves to be had or moved in any wise touching or concerning the liberties licences privileges works or ores aforesaid or any of them or the good order or rule of the said persons ministers officers labourers and workmen or any of them :

And also We for Us our heirs and successors have granted, and by these presents *of our especial grace certain knowledge and mere motion* do grant, unto the said [Corporation] that they and their successors shall and may lawfully purchase obtain take have and enjoy unto them and their successors forever lands tenements and hereditaments whatsoever which be not or shall not be holden of Us our heirs or successors immediately *in capite* or in chief, so that the same lands tenements or hereditaments exceed not in the whole the clear yearly value of an hundred pounds of lawful money of England above all charges and reprises, The statutes provided against alienations made into mortmain or any of them or any article or clause in them or any of them contained or any other law custom statute or provision whatsoever to the contrary thereof in any wise notwithstanding :

And also We will by these presents grant for Us our heirs and successors to the said [Corporation] that they or [such majority or proportion as may be duly appointed] shall and may have full power and authority by these presents from time to time as to them it shall seem good to limit set ordain and put reasonable pains and penalties by fines forfeitures and imprisonments or any of them upon any, being a member or members of the body politic Society and Commonalty aforesaid or a minister officer or servant labourer or workman of the same, for any offence touching the said [Corporation] or their works affairs or other things contrary to the statutes acts ordinances and rules so to be devised and made as is aforesaid or any of them :

And further We will by these presents that if any of the said body politic Society or Commonalty at any time hereafter shall be found contrarious rebelling or disobedient<sup>1</sup> to the said Governor or Governors

<sup>1</sup> Cf. *ante*, p. xii. (1); and see *post*, p. 14 (1).

and Assistants for the time being or to any of the statutes acts ordinances or rules to be made as is aforesaid and then remaining in force and not repugnant to anything contained in these presents; that then the said Governor and Assistants of the said Society and Commonalty for the time being or the more part of them or such and so many of them as by statutes [etc.] shall be therefore authorised shall and may by virtue of these presents correct and punish all and every such offender or offenders as well by fines pains and penalties as by imprisonment within any gaols or prisons of Us our heirs or successors as the quality of the fault shall require according to their good discretions :

And further We will that none of the said offenders shall decline from or refuse the justice order direction power or authority of the said Governor or Governors and Assistants or the more part of them for the time being or of the persons so to be authorised as is aforesaid :

Moreover We for Us our heirs and successors will and by these presents grant unto the said [Corporation] that the Governor or Governors and Assistants of the Society aforesaid for the time being [or such majority or proportion as shall be duly authorised] shall have full power and authority to assign constitute and ordain one officer or divers officers, as well within our said City of London as also in any other place or places of this our Realm of England, which officer or officers we will to be named or called by the name or names of Sergeant or Sergeants for the Mines Royal; and that they the same Sergeant or Sergeants shall and may have full power and authority by these presents to take receive levy and gather all manner of fines forfeitures penalties or pains of every person or persons of the said body politic or Society that shall be convicted upon or for breaking of any statutes acts ordinances or rules to be made as is aforesaid :

And further We will and also grant for Us our heirs and successors that the said officer or officers shall have further power and authority for default of payment or for disobedience in that behalf if need be to set hands take and arrest as well the body and bodies as also the goods and chattels of such offender or offenders and transgressors in all and every place and places being no town or city corporate, And if it shall fortune any such offender or offenders their goods or chattels or any part thereof to be in any town or city corporate where the said officer or officers may not lawfully intromit or intermeddle, that then the Mayors Sheriffs Bailiffs or other head officers or ministers within every such city or town corporate, upon a precept to them or any of them to be directed under the common seal of the said [Corporation], shall and may attach and arrest the body and bodies goods



or chattels, and every part thereof so attached and seized shall according to the tenor and purport of the said precept return and deliver to the said officer or officers of the said [Corporation] to be ordered according to the tenor and purport of the said precepts :

And further We will and grant for us our heirs and successors by these presents that all and every such Mayors Sheriffs Bailiffs and other head officers and ministers of such city or town corporate shall not be impeached molested vexed or sued in any Court or Courts of Us our heirs or successors for executing or putting in execution any of the said precept or precepts,<sup>1</sup> but that they and every of them upon the only sight thereof and adding the cause of the fact to be done by virtue of any such precept from time to time and at all times shall be clearly discharged of all and every such suit plaint or action which at any time hereafter shall be commenced or pursued against them or any of them in that behalf, unless the party in such suit will reply *De son tort demesne sans tiel cause*,<sup>2</sup> and issue or plea in that behalf not to be admitted in any action or suit touching or concerning the execution of any the said precept or precepts :

Nevertheless our will and pleasure is that in all assemblies hereafter to be had for the making or devising of any the laws rules orders or ordinances aforesaid or for the making of the elections aforesaid or for doing of any other thing aforesaid by these presents referred to be done or which by any laws rules orders or ordinances to be made as is aforesaid shall be referred to be done by the most part of the said Society or by any other number by these presents appointed or hereafter to be appointed in manner and form aforesaid, every person that shall be a member of the said body politic and that shall be appointed in manner and form therefore limited to have the benefit of half a quarter or more of one four and twentieth part of the said licences powers authorities privileges benefits and immunities shall be admitted to have voice and suffrage and to be accounted of the said numbers and none other in any manner of wise, The same account to be made and every such voice and suffrage to be reckoned esteemed and allowed of in manner and form ensuing and not otherwise, that is to say, that the voice and suffrage of every person that shall be appointed [as aforesaid to have a quarter of  $\frac{1}{24}$  share] shall be accounted esteemed and reckoned of as great account force and validity and for so many voices and suffrages as the voices and suffrages of any two other persons

<sup>1</sup> From the clause for correcting contrarious members down to this point, the grant follows most faithfully Mary's charter to the Merchants for the Discovery

of Lands (*ante*, p. xxx.), or some common original.

<sup>2</sup> The common replication *de injuria*.

of the said company whereof the one shall be appointed [as aforesaid to have but half a quarter of  $\frac{1}{24}$  share] be or shall be, and so after that rate and proportion, the voice [etc. of everyone holding more than one quarter of  $\frac{1}{24}$  share to be reckoned of as much account as] the several voices and suffrages of so many other divers several persons whereof everyone shall be appointed [as aforesaid to have but half a quarter of  $\frac{1}{24}$  share] and whose said several portions shall not extend in quantity the said part or portion of the said singular person, be or shall be:

Willing therefore and straitly charging and commanding all and singular our Officers Mayors Sheriffs Justices Escheators Constables Bailiffs and all and singular other our ministers liegemen and subjects whatsoever to be aiding favouring helping and assisting to the said [Corporation] and their officers ministers sergeants factors deputies and assigns and to the deputies factors and assigns of every of them in executing and enjoying the premises and every of them from time to time and at all times when they or any of them shall be thereunto required :

For that express mention of the true value or of the certainty of the premises or of any of them or any other gifts grants or licences by Us or any our Progenitors to the said Governor Assistants and Commonalty before this time made is in these presents not made, Any statute act ordinance provision or restraint to the contrary thereof made ordained or provided or any other thing cause or matter whatsoever in any wise notwithstanding :

In witness whereof etc. witness our self at Westminster xxviii day of May,  
per ipsam reginam etc.<sup>1</sup>

<sup>1</sup> The second charter of the company (*Patent Rolls*, 2 Jac. I., part xxvi.) scarcely differs from the first, except in the names of the grantees. It recites that *Thomas Thurland*, *Daniel Houghsetter* and most of their grantees and assignees are dead, and that the licences, privileges, etc., have come into the hands of the following:— 'Our right wellbeloved Cousin *William Earl of Pembroke* and our right trusty and right wellbeloved Councillor *Robert Viscount Cranborne*, our Principal Secretary, and our trusty and wellbeloved *Henry Lord Windsor*, and our right trusty and wellbeloved Councillor *Thomas Lord Burghley*, and to our right trusty and wellbeloved *Thomas Lord Gerrard*, and to our trusty and right wellbeloved Councillor *Sir John Popham*, Knight, Chief Justice of the Pleas before Us to be holden assigned, and our trusty and wellbeloved *Sir Edward Wynter*, Knight, *Sir Francis*

*Popham*, Knight, *Sir John Smyth*, Knight, *Roger Owen*, Knight, *Francis Needham*, *Arnold Oldisworth*, *Christopher Toldervey*, *William Gamage*, *Francis Beale*, *Otes Nicholson*, Esquires, *Richard Danford*, gentleman, *Edward Baynes*, mercer, *Emanuel Demetrius*, merchant stranger, *Abraham van Delden*, merchant stranger, *Emanuel Hechstetter* and *Danyell Hechstetter*.' These persons are incorporated by the name of 'Governors Assistants and Society of the City of London of and for the Mines Royal,' with *Viscount Cranborne* and *Sir John Popham* as Governors, *Sir John Smyth* and *Arnold Oldisworth* as Deputies, and *Owen*, *Needham*, *Toldervey*, *Gamage*, *Beale* and *Nicholson* as Assistants: all these to hold office till the first Monday in May 1605 or till further election. The charter is witnessed 'at our Castle of Windsor, the eight and twentieth day of January.'



## SOCIETY OF THE MINERAL AND BATTERY WORKS<sup>1</sup>

(Patent Rolls, 10 Eliz., pt. ix.)

ELIZABETH *by the Grace of God etc.*, To all to whom these our Letters Patents shall come, greeting :

Where We, by our Letters Patents under our great seal of England bearing date at Westminster the seventeenth day of September in the seventh year of our reign,<sup>2</sup> for the considerations therein mentioned and expressed, *of our especial grace certain knowledge mere motion and prerogative royal* by the same our Letters Patents for Us our heirs and successors did give and grant full power commission licence and authority unto our faithful and wellbeloved subject *William Humfrey*, say-master<sup>3</sup> of our Mint within our Tower of London, and unto *Christopher Shutz*, an Allmain born at Sainte Annen Burghe under the obedience of the Elector of Saxonie, to their heirs and assigns and every of them for ever, by themselves their servants labourers workmen deputies and assigns to search dig and mine for the calamine stone called in Latin *lapis calaminaris* in all places of our Realms and Kingdoms of England and within the part of Ireland known at the date of our said Letters Patents by the usual name of the English Pale, and all the dominions and territories of the same or either of them, And the same stone and the only use employing and commodity thereof for the making and compounding of latten<sup>4</sup> and all other mixt metals to take have use enjoy and employ,<sup>5</sup> And also all kind and sort of battery wares cast work and wire of latten iron steel and battery to make manure<sup>6</sup> and work unto and for all manner of plate and wire or otherwise needful and convenient for all manner uses and purposes to their most benefit and profit and to the benefit and profit of every of them for ever ;

And any house or houses by their or any of their discretions meet necessary and convenient for the melting manufacturing casting working and compounding of the said metals battery plate and wire at their pleasure and at their own proper cost and charge to erect build set up and use, as well in and upon any our own land ground and possessions

<sup>1</sup> See Introduction, *ante*, pp. xcvii.-c. A later charter of this Society is given below, pp. 43-51.

<sup>2</sup> *Patent Rolls*, 7 Eliz., part viii.

<sup>3</sup> Assay-master.

<sup>4</sup> 'A mixed metal of yellow colour, either identical with, or closely resembling, brass ; often hammered into thin sheets,'

*N.E.D.* 'Latten . . . is another sort of copper coloured with *lapis calaminaris*' (Leoni, *Palladio's Archit.* : cited in *N.E.D.*). Calamine stone is ore of zinc.

<sup>5</sup> See discussion as to monopoly, *ante*, p. xcvi.

<sup>6</sup> 'To work upon with the hand, to work up' ; *N.E.D.*, 'manure,' 4a.

as also in and upon the land ground and possessions of any of our subjects within our said Kingdoms [as aforesaid], without any manner of let perturbation or molestation of Us our heirs or successors or of any other person or persons, together with divers other powers privileges [etc., as specified in the patent],

And whereas [the same patent recited a previous grant] to *Cornelius de Voz*<sup>1</sup> for the mining and digging in our Realms of England for alum and copperas and for divers ores of metals that were to be found in digging for the said alum and copperas incidently or consequently without fraud or guile, as by the same our privilege may appear,

And further reciting by the same [patent] that where We, moved by the credible report to us made of one *Daniell Howghsetter*,<sup>2</sup> a German born, and of his skill and knowledge of and in all manner of mines of metals and minerals, had given and granted privilege to *Thomas Thurland* [etc.,\* and to *Daniel Houghsetter*, to dig and mine in the areas therein mentioned\*], And with the same further to deal as by our said privilege thereof granted and made to the said [grantees] may appear,

And where We then being minded that the said commodities and all other treasures of the earth in all other places of our Realm of England and also in the part called the English Pale within our Realm of Ireland should be searched out for the benefit and profit of Us our said Realms and subjects of the same, And having then received credible information as well of the great industry travail and experience that our said faithful and wellbeloved subject *William Humfrey* [etc.] had in and about mines minerals ores and matters metalline bestowed and borne and then did, whereby there were found out in divers and sundry the said other places of our said Realm not only divers ores of metals very likely to prove right rich and profitable, but also at and by his diligence procurement and charge there were brought and won into this our said Realm of England workmasters of great cunning perfectness knowledge and experience in all kind of mineral works and of water works for the draining of all manner of mines,

Therefore We of our especial grace certain knowledge mere motion and prerogative royal [by the said patent granted *Humfrey* and *Shutz* full powers etc. by their workmen etc. to search mine etc. in the areas abovenamed] except only the said Principality and Counties expressed

<sup>1</sup> *Patent Rolls*, 6 Eliz., pt. viii. (3 July). An Act of 8 Eliz., c. 21, transferred the working of this patent to Lord Mountjoy: without his licence no one was to work mines of alum or copperas for twenty-one years from 1 April 1567.

The Act excepts the privilege of Wm. Kendall (see *Patent Rolls*, 5 Eliz. pt. v.) for Cornwall, Devon and Somerset.

<sup>2</sup> See Introduction. *ante*, p. xciv.

\* As in the Mines Royal charter, *ante* p. 4.



in the said privileges to the said *Thomas Thurland* and *Daniel Houghsetter* as is aforesaid granted, and to convey carry and work in waters and waterworks belonging to the said mines in all places and territories of and in our said Realms and either of them as afore is mentioned, except before excepted, for all manner of ores simple and pure or mixt and compound of the metals of gold silver copper quicksilver and for all other minerals and treasures likely to be found in the said earths grounds places and soils or any of them, And for tin and lead in such sort as by the laws or customs of our said Realms then was or before had been lawfully used, copperas and alum in this our Realm as afore is said only except,

And the same ores simple or mixt minerals metals and treasures to drain break stamp wash boil roast and melt or otherwise to fine and bring to best perfection of metal, and them and every of them to convert take enjoy and use to their most commodity and profit and to the profit of them and every of them for ever,

And any house or houses [as above, to build on any land without molestation, together with divers other privileges as expressed in the patent],

And whereas for the better search finding and working of the mines and minerals within our said Realms and Dominions, And to the intent that many of our subjects and others thereby may get their living, which trade of living heretofore was hidden and unknown to the great discommodity of this our Realm and subjects for lack of knowledge thereof, Our pleasure intent and meaning in our said former Letters Patents was [that *Humfrey* and *Shutz* and their assigns might assign parts of the privileges, and thereupon they did so assign\*] to our right trusty and right wellbeloved Counsellor *Sir Nicholas Bacon*, Knight, Lord Keeper of our great seal of England, and to our right trusty and right wellbeloved Cousins and Counsellors *Thomas Duke of Norfolk*, *William Earl of Pembroke*, *Roberte Earl of Leycester*, And to our right trusty and wellbeloved *William Lord Cobham*, And to our right trusty and wellbeloved Counsellors *William Cicill*, Knight, our principal Secretary, and *Sir Walter Mildemaye*, Knight, Chancellor of our Court of Exchequer, and to *Sir Henry Sydney* of the most noble Order of the Garter, Knight, *Sir Francis Jobson*, Knight, *Sir William Garrard*, Knight and Alderman of our City of London, and to *Rowland Heyward*, Alderman of our said City of London, and *John Tamworthe*, *Peter Osborne*, *Thomas Cecill*, *Frauncis Agarde*, *Thomas Fletewood*, *William Robertes*, and *Henry Codenham*, Esquires, And to *Roberte*

\* As in the Mines Royal charter, ante, p. 4.

*Christmas, Roger Wetherall, William Paten, Christopher Chewte, Thomas Smyth and William Dodington, gentlemen, William Byrde, George Barne, Anthony Gamage, Richard Marten, Edmond Robertes, of the County of Kent, merchants, Frauncis Bartie, Richard Handford, Edward Castlyn, John Gooderiche, John Louyson, William Williams, Christopher Berkebecke and Andrewe Palmer, divers parts and portions of the licences powers [etc. aforesaid, under which Humfrey and Shutz have worked at great expense and to very good effect, whereby great benefit is like to ensue etc. if the persons concerned are incorporated, thereby to avoid divers inconveniences etc.],\**

*Know ye therefore that we, minding [etc.\* to further the use of the calamine stone, etc. and confirming the privileges of Humfrey and Shutz, which are to be beneficially construed, and to advance the working and avoid the inconveniences etc.], of our especial grace certain knowledge and mere motion [have incorporated \* the persons named above, with Humfrey and Shutz] by the name of **Governors Assistants and Society of the Mineral and Battery Works,** [with the usual words of incorporation, to have perpetual succession, a common seal, and capacity to take in law of Humfrey and Shutz and others all privileges and rights etc., to purchase land etc., and to sue and be sued etc.]:\**

[The Society to have two Governors, two or more Deputies and eight or more Assistants]:\*

[*Sir Wm. Garrard and Rowland Heyward to be first Governors until first Thursday in December next ensuing: John Tamworth and Peter Osborne first Deputies similarly: Thomas Fletewood, Hy. Codenham, Wm. Birde, Geo. Barne, Wm. Humfrey, Chr. Shutz, Ant. Gamage and Ric. Marten, first Assistants similarly*]:

[Power to meet etc. in places, at times and for purposes stated \* to elect Governors, Deputies and Assistants: power to replace officers who die: power to keep Assemblies and Courts, to make statutes rules etc. for admission of members etc.,<sup>1</sup> and revoke or alter the same]:\*

And further We for Us our heirs and successors as much as in Us is will and grant by these presents unto the said [Society], that every officer and minister of the said Society, and every workman and labourer in the Mineral and Battery Works aforesaid, shall be during the time of every of their said office ministry working or labouring exempted and not impanelled or put in any Assizes or Juries or any Inquisitions or Attaints against their will, although they do touch Us our heirs or successors or any others whatsoever:

<sup>1</sup> See summary of constitutions, *ante*, p. xviii.

\* As in the Mines Royal charter, *ante*, pp. 5-10.



[Power at Assemblies and Courts to admit persons, administer oaths etc., and dismember unworthy persons etc.; to keep ordinary Courts for purposes stated; to purchase and enjoy lands etc. on terms mentioned; to ordain penalties etc., correct and punish contrary and disobedient members, who must not refuse the Society's authority; to ordain Sergeants with powers to arrest etc.; provision for execution of precepts etc. in cities etc.]: \*

And further We will and grant [etc. that all] Mayors Sheriffs Bailies and other head officers [etc. of such city etc., or such Sergeants aforesaid, shall not be impeached &c. in any Courts concerning the executing the said precepts, but shall be clearly discharged of all actions etc. hereafter commenced against them in that behalf], And for trial thereof if the party grieved will reply, it must be *De son tort demesn sans tiel cause*, and no other replication shall be, and thereupon only the issue in that behalf to be admitted in any action or suit touching or concerning the execution of any the said precept or precepts:

[Officers, Mayors etc. to be aiding the Society]: \*

[Express mention and *non obstante* clauses]: \*

In witness etc., witness our self at Westminster the xxviii day of May.

*Per breue de priuato sigillo.*

## SOCIETY OF THE NEW ART<sup>1</sup>

(Patent Rolls, 14 Eliz., pt. xii.)

ELIZABETH *by the Grace of God Queen of England France and Ireland, Defender of the Faith etc.*, To all unto whom these presents shall come, Greeting:

*Whereas* our right wellbeloved and right faithful and trusty Councillor *Thomas Smyth* of Theidon at Mount in the County of Essex, Knight, hath, through long search in books of divers arts divers trials many times in vain essayed and manifold expenses of his time and money before time lost, now at the last by God's goodness<sup>2</sup> found out and put in ure<sup>3</sup> a new and certain art to try out and make of iron very

\* As in the Mines Royal charter, *ante* pp. 10-15.

<sup>1</sup> See Introduction, *ante*, p. lxi.

<sup>2</sup> The second charter (*Patent Rolls*, 17 Eliz., pt. ix.; see *ante*, p. lxii) adds

here 'and with the industry and practice of *William Medeley Esquire*.'

<sup>3</sup> Work, *œuvre*: see *N.E.D.*, s.v. 'enure,' 'inure.'

true and perfect and good copper, and of antimony and lead likewise true and perfect quicksilver, which art as it is marvellous rare so hath it heretofore not been put in ure and practised in this Realm as he offereth to do it nor to any such great benefit and enriching of our Realm as far as We have had yet understanding, The which device and notable invention, if God grant good success to those that shall further travail therein, will be very profitable to Us our heirs and successors for the making of our ordnance and other munitions for the wars and for many other like uses, and also to all other the people and subjects of this our Realm of England and other our Dominions,

*We therefore*, greatly liking of all good sciences and wise and learned inventions tending to the benefit of the commonwealth of our said Realm and Dominions and serving for the defence thereof, and minding as behoveth so good and excellent an invention so hardly and so happily come to to further and advance, and the skilful and first finder thereof graciously to reward, as to Us in honour in such cases doth appertain, do therefore, to continue the memory of the same invention and of our gracious accepting thereof as of a service done greatly, to our honour and the benefit of our Realm, determine to ordain and make the said *Sir Thomas Smyth*, and also our dear Cousin and Counsellor *Robert Earl of Leicester*,<sup>1</sup> our wellbeloved and trusty Counsellor *William Cecill*, Knight Baron of Burghley, *Sir Humfrey Gylbert* of Otterden in our County of Kent, Knight, and whom the said *Sir Thomas Smyth* hath especially chosen to be joined to him that by their common charges and expenses the burthen of the further proceedings in and perfecting of the said art and enterprise may be the better borne, to be one body politic and corporate for ever, and to have and enjoy for ever the licences benefits pre-eminences franchises liberties powers and authorities hereafter in these presents expressed :

*And therefore know ye that We of our special grace certain knowledge and mere motion* have granted [incorporation to the persons above-named,] by the name of **Governor and Society of the New Art** [as a perpetual body, with perpetual succession and a common seal, power to take lands etc., to sue and be sued etc. ; to have one Governor and one Deputy : *Sir Thomas Smyth* to be first Governor,] to have and enjoy the said office during the natural life of the said *Sir Thomas Smyth* if he the said *Sir Thomas Smyth* do not sooner of his own free will relinquish yield up or give over the said office :

<sup>1</sup> Second charter :—' our right trusty and wellbeloved Counsellor *Sir William Cecill*, Knight of our order, Baron of Burghley, our Lord High Treasurer of

England, *Sir Humfrey Gilbert* . . . and the said *William Medeley* Esquire, whom the said *Sir Thomas Smyth* hath ' etc.



And We do grant to the said [Society] that the said *Sir Thomas Smyth*, with assent of the more part of the Society,<sup>1</sup> name appoint and constitute from time to time one sad and discreet person of the said Society to be his Deputy who shall be and continue Deputy of the said Governor accordingly :

[The Society may at all times in places convenient assemble and meet to keep Courts, do business and execute powers ; they, or so many as by rules hereafter made shall be appointed, may keep Courts] for the good government of the said Society and of all the factors servants workmen ministers officers causes matters and things to the said [Society] in any wise belonging, [and thereat may administer to any persons admitted as members and to all servants etc. an oath for due keeping of rules etc., and further yearly or otherwise after *Sir Thomas* dies or ceases to be Governor, may elect a Governor for one year or otherwise as appointed ; any Governor dying, or being duly removed from office before the end of his term, may be replaced] :

*And further know ye that We* for the considerations aforesaid *of our special grace certain knowledge and mere motion and of our prerogative royal* by these presents for Us our heirs and successors do give and grant full power licence authority and privilege especial to the said [Society, that they by themselves their deputies workmen etc.] at all times hereafter and in all parts of this our Realm of England or elsewhere within the Dominions of Us our heirs or successors by and according unto the art invention and device aforesaid or by and according unto any other arts inventions or devices hereafter by them or any of the said Society or by any other at their costs and charges to be found out invented or devised, shall and lawfully may fine try out alter change reduce turn and transmute iron iron ore and every thing that doth or may come or proceed of iron or iron ore into any kind of copper and also antimony lead or lead ore into quicksilver, and to dig open and work for any mines ores and things whatsoever meet and needful to be occupied used or had in or about the premises or any of them or the doing or bringing to pass thereof, and also to do and execute and cause to be done and executed all and every thing and things device and devices whatsoever needful to be done or executed or which conveniently or incidently will or shall fall out in or about the said fining [transmuting etc. as above], and also shall and lawfully may at all times and from time to time hereafter sell exchange or otherwise utter or cause to be sold exchanged or otherwise uttered to their most advantage in any place or places within this our Realm [etc. as above], all the copper quicksilver vitriol

<sup>1</sup> Second charter :—‘shall and may, for so long time as he shall be and remain Governor of the said Society, name’ etc.

copperose<sup>1</sup> alum saltpetre brimstone borax and all other things whatsoever which in or about the said fining [transmuting etc] shall come fall out rise be brought to pass or made, and the same copper quicksilver [etc.] ship put into and lade and cause so be shipped put into and laden into or upon any boat crayer<sup>2</sup> ship or vessel, to the intent to be carried and to carry and convey the same into any part or parts beyond the seas or into any outward Realm or Dominion whatsoever it be, or to carry or discharge the same in any part or parts of this Realm [or other our Dominions] at their wills and pleasures, and the same also so shipped put into and laden to carry convey and transport and cause to be carried [etc.] by water or otherwise out of and from any part of this our Realm [or other our Dominions] or into any part or parts beyond the seas or into any outward realms places or dominions whatsoever other than to the then known and open enemies of Us our heirs or successors, and the same there to discharge unlade sell exchange and otherwise utter to their most benefit and advantage, paying to Us our heirs and successors forty shillings of lawful English money for every parcel or quantity of copper quicksilver and other things aforesaid that shall be shipped and transported into any of the parts beyond the seas out of this our Realm of England by way of merchandise that shall be of the value of one hundred pounds of lawful English money, and so after the rate for every less or greater quantity of any such copper quicksilver or other thing, valuing and rating the same in form following and not otherwise, that is to say, every hundred pounds weight of copper at forty shillings English, and every hundred pounds weight of quicksilver at five pounds, every hundred pounds of vitriol or copperose at two shillings, and every hundred pounds of alum at five shillings, and so valuing after that rate every less or greater quantity of any such copper [etc.] :

The same sums to be paid to Us our heirs and successors in such manner as the subsidy called pondage<sup>3</sup> granted to us in the Parliament begun at Westminster the xxiii day of January in the first year of our reign and there prorogued till the xxvth of the same month and then and there holden is by the Act of granting thereof, entituled an Act of Subsidy of Tonnage and Pondage, appointed to be paid and in full satisfaction of all customs subsidies and duties whatsoever

<sup>1</sup> See *N.E.D.* (*s.v.* 'copperas'), 'a name given from early times to the proto-sulphates of copper, iron and zinc . . . It has to be remembered . . . that from the medieval point of view copperas was a *species* . . . and that the phenomenon of the dissolving of iron by a solution of green copperas, with deposition of its

copper, was explained as conversion of iron into copper by the mediation of the copperas, which changed its colour from blue to green in the process.'

<sup>2</sup> A 'small trading vessel formerly used'; *N.E.D.*

<sup>3</sup> Obsolete form of poundage (*q.v.* in *N.E.D.*): cf. Anglo-Latin form *pondagium*.



for or by reason of the premises or of any matter or thing touching or concerning the same to Us our heirs or successors due or in any wise hereafter to be due or payable, without any other custom subsidy duty or agreement for any custom duty or subsidy to be paid made or had therefore according to the said estatute<sup>1</sup> or any other estatute law custom or usage whatsoever, and without manifesting or declaring before the shipping thereof to any custom or other officer or person whatsoever the true weight of any such metal as shall be so shipped in such manner or to such intent or purpose as by the statute made in the Parliament begun at Westminster the xvth day of Janyver [continued till April 1<sup>st</sup>, 33 Henry VIII], entituled an Act concerning the Conveyance of Brass Latten and Bell Metal on the Sea<sup>2</sup>, and the statute made in the session of Parliament holden upon prorogation at Westminster [November 4th, 2 Edward VI, and continued to March 13th, 3 Edward VI], entituled an Act against the Carrying of Bell Metal out of the Realm<sup>3</sup>, or by either of the said estatutes, is limited and appointed, and also without making any obligation to any customer or other person to the use of Us our heirs or successors according to the said two last mentioned estatutes or either of them, and also without bringing any certificate touching the said metal so to be shipped carried or discharged according to the said two last mentioned statutes or either of them, and also without any other matter or thing whatsoever to be therefore done caused or had in any manner or sort whatsoever, and without losing or forfeiting to Us our heirs or successors the said copper [etc. aforesaid or any part or value or part value thereof] or any sum or sums of money or other forfeiture pain or penalty whatsoever, and without incurring or falling into any danger pain or damage whatsoever which for or concerning anything in these presents before mentioned to be done by the said [Society] or by their means is or shall be limited appointed or declared by any laws estatutes or usages of this Realm or any other of our Dominions, the said three several Acts and estatutes aforesaid or any of them or any other estatute law usage custom matter or thing whatsoever to the contrary of any of the premises in these our Letters Patents comprised in any wise notwithstanding :

<sup>1</sup> *N.E.D.* gives examples of this form between the years 1514 and 1610.

<sup>2</sup> This statute forbade export of such metal under penalty of forfeiting double value (thus increasing the penalty imposed by 21 Hen. VIII., c. 10 : see also 28 Edw. III., c. 5). No one might ship or convey such metal unless he first declared the true weight to the Customer of the port of shipping, with a bond for double value to

discharge only at ports within the Realm : production of a Customer's certificate of discharge was required within eight months after shipping.

<sup>3</sup> 2 & 3 Edw. VI., c. 37, increased the penalty and bond to double value and £10 per thousand weight. The law was subsequently relaxed by 5 & 6 W. & M., c. 17, and 7 Anne, c. 8, s. 8.

And further We for Us our heirs and successors do grant, and Us our heirs and successors by these presents do bind, to the said [Society etc.] that We our heirs or successors or any of the customers searchers ministers officers or assigns of Us our heirs or successors whatsoever shall not ne will not at any time or times hereafter demand ask take and have of the said [Society or of any servant etc.] any sum or sums of money or other charge whatsoever for any custom subsidy [etc. due or demandable for the premises or for shipping etc. or transporting out of the Realm and Dominions any copper etc. into the parts beyond seas or elsewhere other than the sums hereby limited], but do [hereby for Us etc.] clearly acquit and discharge the said [Society etc.] and their said goods and merchandise of and from all customs subsidies [etc. due under the aforesaid or other statutes or laws for the transporting etc.] :

[And We also grant power to the Society and all customers searchers etc.] and to all masters gunners pursers and boatswains that now be or hereafter shall be of any ship boat crayer or other vessel whatsoever, and to all and every other person whatsoever, [to ship for the Society and permit the Society and its servants to ship] all or any parcel or parcels of any such copper so to be made as is aforesaid, and to conceal the same without disclosing the same, and without seizing of the said copper or any parcel thereof to the use of Us our heirs or successors according to the [two said bell-metal statutes, and without forfeiting value or double value of such copper or other penalty] :

And to the intent that the said [Society] only may enjoy and have the full benefit and profit of this our grant and licence and the sole and only liberty power and authority to fine try out [transmute etc. iron iron ore etc. into any kind of copper] and also antimony lead lead ore any and every thing that doth or may come or proceed of antimony lead or lead ore into quicksilver within this our Realm [and other Dominions], our Will and Pleasure is, and by these presents for Us our heirs and successors We straitly charge and command all our loving subjects and every other person and persons whatsoever that now be or hereafter shall be, that they or any of them by any ways or means whatsoever do not nor shall not attempt go about or presume within this our Realm [or other Dominions] to fine<sup>1</sup> try out [etc. iron etc. into copper or antimony etc. into quicksilver, nor bring into England or our Dominions from beyond seas any copper or quicksilver made by transmutation in foreign parts], upon pain of imprisonment for one whole year for every such offence without bail or mainprise, and of the forfeiture not only of all the copper and quicksilver [so made or brought in] but also of all that in or by the making thereof shall or may arise, be it vitriol

<sup>1</sup> *Patent Rolls*, 'find.'



copperose alum saltpetre brimstone borax or any other thing whatsoever it be, and also of one hundred pounds of lawful English money for every time that any such attempt or other act or offence shall be had or made contrary to the purport or true intent thereof, the one moiety of which forfeitures shall be to Us our heirs and successors and the other moiety to the said [Society], and also upon such further pain punishment imprisonment and displeasure as We our heirs or successors for a contempt by the laws of this our Realm and by our prerogative and regal jurisdiction may any way assess appoint or adjudge in that behalf:

[And we further grant that We etc.] shall not at any time or times hereafter by Letters Patents or by any other ways or means grant or give licence power or authority unto any person or persons or bodies politic or corporate that now be or hereafter shall be, to fine try out [etc. as above], or otherwise to use exercise or to counterfeit any the work or works of the said [Society] touching the premises hereinbefore mentioned, and that [in England or other our Dominions no one and no body politic except the Society be hereafter suffered to attempt to fine try out etc. or to counterfeit the copper quicksilver etc. by the new art to be made]:

And that We our heirs and successors from time to time and at all times hereafter according to our prerogative royal shall and will in all things disturb and utterly let all and singular person and persons and bodies politic and corporate whatsoever [other than the said Society, who shall attempt to fine try out etc. or counterfeit etc. as above], and utterly destroy and deface and cause to be defaced and utterly overthrown and destroyed all manner of tools instruments houses buildings stuffs and other necessities and things whatsoever had or made [now or hereafter in England or our Dominions by any person or corporation for transmuting or counterfeiting as aforesaid]:

Moreover We for Us [etc. hereby grant to the Society] and to their successors that shall be of the said Society for the time being, together with all such persons as for the time shall be of the said Society and body politic, so always that every person and persons being a member or members of the said body politic be thereunto indeed agreed or consenting, [full power to make statutes laws rules for new admission or expulsion etc.], and for the limiting assigning setting out appointing and assuring to every person being or that at any time shall be a member of the said body politic of his part and dividend<sup>1</sup> of all the lands tenements hereditaments copper quicksilver vitriol [etc. as above] goods chattels

<sup>1</sup> Early and, according to *N.E.D.*, instance of the latter given therein is dated erroneous form of 'dividend.' The earliest 1623.

stocks and other things whatsoever [appertaining to the Society for the purposes hereof, [and for good order and determining the authority of Governor and members and for good government of members servants affairs etc.] :

[Power to alter revoke etc. such rules] at their will and pleasure with consent as aforesaid :

[Members by laws appointed shall execute laws etc. and govern all members and servants accordingly] :

And that every person or persons according to such laws rules or ordinances to be admitted of the said Society from the time of his admittance shall be free of the same, and that no person or persons which hereafter shall be admitted into the said Society in any other manner or form than is before expressed or contrary to the purport and true meaning of these presents or which shall be put out or dismembered from the said Society according to the ordinances laws or rules hereafter to be made as is aforesaid shall in any wise after that be or be accounted to be any member of the said body politic :

The said Governor and Society and their successors yielding and paying all and singular the premises to Us our heirs and successors yearly hereafter during five years next ensuing after the Feast of All Saints now next coming on, and besides the sums of money in form aforesaid appointed to be paid, either the full tenth part of all such copper and quicksilver as the said [Society etc.] by any such art alteration change or transmutation as is aforesaid hereafter yearly during the said term of five years shall make or cause to be made, to be delivered at the Feast of St. Michael the Archangel at the place where such copper or quicksilver shall so fortune to be made, to the hands of such person or persons as We our heirs or successors shall therefore name and appoint yearly to be paid and delivered, Or else, instead of the same tenth part, every such year of the said five years as the said [Society] shall make or cause to be made any such copper or quicksilver and shall not agree to pay or yield the said tenth part thereof, then the sum of one hundred pounds of good and lawful money of England at the choice and election of the said [Society, such £100 to be paid] on the last day of October at the receipt of the Exchequer of Us our heirs and successors : [And after such five years either such full part or—at their option—the yearly sum of £200 in manner aforesaid] :

And We do also ordain that the said Corporation [aforesaid] presently consisting of five persons shall not contain above the number of twenty persons at any time hereafter, and that all gains and charges shall always be equally taken and borne after the rate and proportion of the whole in effect in five parts to be divided, *Provided always* that if any



of the said Society shall at any time hereafter for his own commodity lucre or gain go about to trade any the foresaid things or practise to fine try out [etc. as above] otherwise than by the appointment of the said [Society] that then every such person so doing the same upon purpose thereof to be had shall be dismembered and utterly expelled from the said Society forenamed and from thenceforth shall be disabled to have and enjoy any part of the privileges or other interests by these presents granted :

[Power to purchase lands not exceeding clear yearly value of £66 13s. 4d., not to be holden of Us *in capite* or otherwise by knight service, mortmain statutes notwithstanding] :

[Officers Mayors Sheriffs etc. to be aiding favouring etc., and not to allow any disturbance to the grantees contrary to the purport hereof,] wherein these our Letters Patents or the duplicate exemplification or the enrolment thereof shall in all Courts and places and before all Justices and other ministers and officers whatsoever be to them a good and sufficient warrant and discharge in this behalf <sup>1</sup> :

For that express mention

In witness whereof etc. witness our self at Westminster the fourth  
December *per ipsam Reginam.*

## FELLOWSHIP OF ENGLISH MERCHANTS FOR DISCOVERY OF NEW TRADES.<sup>2</sup>

(Patent Rolls, 19 Eliz., pt. xii.)

ELIZABETH *by the Grace of God etc.*, To all manner our officers true liege men ministers and subjects, and to all other our people as well within this our Realm as elsewhere under our obeisance jurisdiction and rule or otherwise, to whom these our Letters Patents shall be seen read or shewed, Greeting :

We being given to understand by our faithful and loving subjects *Sir Rowland Heyward* and *Sir Lionel Duckett*, Knights, Governors of the Fellowship of English Merchants for Discovery of New Trades, that the said Fellowship do mind shortly to attempt the killing of

<sup>1</sup> Cf. 3 & 4 Ed. VI., c. 4, explained by 13 Eliz., c. 6, and discussed in 5 Rep. 53.

<sup>2</sup> This Fellowship, a form of the Muscovy or Russia Company, was founded by charter in 1555 (printed by Hakluyt, ii., pp. 304-316), and reincorporated by statute

8 Eliz., c. 17 (printed *ibid.*, iii., pp. 83-89; see Introduction, *ante*, p. xxxi.). The short grant here printed concerns the privilege of whale-fishing. For the charter of 1613, see *ante*, p. xxxiii.

whales in the ocean and other seas, for to make train oil to the great commodity and benefit of this our Realm of England, And for that purpose have already to their great costs and charges procured certain Biscayans men expert and skilful to instruct our subjects therein,<sup>1</sup>

We, well liking and allowing of this their attempt and enterprise as a thing likely to be very beneficial both for the increase of our Navy and mariners and also for furnishing of this our said Realm and Dominions with so necessary a commodity, *of our certain knowledge free will mere motion special grace and of our regal authority* for Us our heirs and successors by these presents do grant to the Governor or Governors Consuls Assistants and Fellowship aforesaid and their successors for ever, That they the said Governors and their successors by their factors servants ministers deputies and assigns and none other shall and may from henceforth for the space of twenty years next ensuing the date hereof use and exercise the killing of whales within any seas whatsoever, and thereof to make train oil to their most commodity and profit :

And further for Us our heirs and successors We do expressly enjoin prohibit forbid and command all and singular person and persons whatsoever as well denizens as strangers and all other persons being in any wise subjects to the Crown of England, being not of the said Society or Fellowship, that they nor any of them shall kill any whale to make train oil thereof, or shall hire or set on work or cause or procure to be hired or set on work directly or indirectly any person or persons to kill any whale or make any oil thereof, Upon pain that all and every person or persons whatsoever doing the contrary shall suffer imprisonment during the will and pleasure of Us our heirs or successors, and not to be discharged thereof without special warrant from Us our heirs or successors, And also to forfeit and pay to Us our heirs and successors the sum of five pounds of lawful money of England for every ton of oil so made, the one half to be to the use of Us our heirs and successors, the other half to the use of the said Fellowship and their successors :

And to the intent this present grant may the better effect to the encouragement of the said Fellowship in this their enterprise and attempt, our further will and pleasure is, and We straitly charge and command all our Customs Officers Comptrollers and other our ministers of our ports that they nor any of them in any wise during the said term of twenty years do take any entry or make any composition of or for any oil commonly called train oil which shall be made of any whale that shall be killed or caused to be killed by any Englishman or

<sup>1</sup> Similar expressions are used in a Proclamation dated 11th Sept., 12 Jac. I. See the testimony to the Biscayans, Hakluyt, iii., p. 201.



other person inhabiting within this our Realm and brought into this our Realm of others than the said Fellowship of English Merchants for Discovery of New Trades or their successors factors or assigns, upon pain of our high displeasure :

*Provided always* that if the said Fellowship [etc.] by the space of four years in time of peace shall discontinue or surcease the killing of whales and making of train oil as is aforesaid, that then it shall be lawful to and for every other of our subjects whatsoever to enterprise and attempt the killing of whales and making of train oil where they might lawfully have done it afore this our special grant or licence, Anything in this our special grant to the said Fellowship made to the contrary notwithstanding :

In witness whereof etc. witness our self at Westminster the xii day of February  
*per breue de privato sigillo.*

## LEVANT COMPANY<sup>1</sup>

(Patent Rolls, 43 Eliz., pt. v.)

ELIZABETH *by the Grace of God etc.* To all our officers ministers and subjects and to all other people as well within this our Realm of England as elsewhere under our obeisance and jurisdiction or otherwise unto whom these our Letters shall be seen shewed or read, Greeting :

*Whereas* We by our Letters Patents sealed with our great seal of England bearing date at Westminster the seventh day of January in the four and thirtieth year of our reign<sup>2</sup> did for the great and weighty considerations therein expressed intend to incorporate divers of our loving subjects by the name of the Governor and Company of Merchants of Levant, and did thereby likewise intend to grant unto them divers privileges liberties and immunities therein mentioned,

Which Corporation and all our grants in the said Letters Patents mentioned or contained are since found to be doubtful and questionable in law,

*And whereas* our faithful and loyal subjects of the said Fellowship and Company of Merchants of Levant, having notwithstanding been

<sup>1</sup> Hakluyt prints (vol. v., pp. 192-202) the grant of 1581 to Osborne and his partners in the Levant trade; also (vol. vi., pp. 73-92) the charter of 1592 incorporating the Levant Company for twelve years (see Introduction, *ante*, pp. xxxviii.-xl.). The subsequent grant of 1605 is printed by

Dr. Epstein, *Early History of the Levant Company*, pp. 153-210. For the charter of 1661, see *ante*, p. xli. (9).

<sup>2</sup> *Patent Rolls*, 34 Eliz., pt. xii. (see last note). For the alleged flaw in the corporate name, see *ante*, p. xxxix. (9).

quietly permitted to take the full and whole benefit of the said Letters Patents without any impeachment by Us, and calling to mind like dutiful and loving subjects what excessive charges and expenses We do daily sustain for the necessary defence of our Kingdom and subjects, have for the manifestation of their grateful minds and loyal affections towards Us submitted themselves to answer and pay unto Us our heirs and successors yearly during the term of years hereafter in these presents mentioned a yearly rent or farm of four thousand pounds of lawful English money, and thereupon have been humble suitors unto Us that We would graciously vouchsafe newly to incorporate them by the name of the Governor and Company of Merchants of London trading into the Levant Seas and to grant unto them such liberties and authorities as by Us shall be thought most meet and convenient for the benefit and common good of the said Company,<sup>1</sup>

*Know ye therefore that We, greatly tendering the wealth of our people and the encouragement of them and other our loving subjects in their good enterprises for the advancement of lawful traffic to the benefit of our common wealth, have of our especial grace certain knowledge and mere motion given and granted and by these presents for Us our heirs and successors do give and grant unto our trusty and wellbeloved subjects Sir Richard Martyn of our City of London, Knight, Sir John Spencer of London aforesaid, Knight, Sir Richard Saltonstall of London aforesaid, Knight, Sir Nicholas Moseley of London aforesaid, Knight, Paule Bannyng, Edward Holmeden, Roger Clarcke and Thomas Smithe, Citizens and Aldermen of London, Henry Lillo and William Harborne, Esquires, Richard Staper, Thomas Cordell, William Garwey,<sup>2</sup> Robert Dowe, Henry Anderson, Robert Offeley, Andrewe Baring, James Staper, Leonard Power, George Salter, Nicholas Leate, John Eldred, Richard May, Arthur Jackson, Robert Sandye, Thomas Garwey, Edward Lichland, Thomas Norden, Robert Bace, Richard Martyn, Junior, Raffe Fitchie, Nicholas Pierdie, Thomas Symons, Frauncis Dorrington, Nicholas Salter, Julius Beamishe, Richard Wrighte, Michael Locke, Robert Cocks, Edward Pervis, Richard Colthurst, William Aldridge, William Barrett, Hughe Hamersley, Edward Collyns, John Mildnall, William Smyth, Richard Wrag, John Garwey, Charles Glascock, Hughe Emerson, John Wilkes, William Kellett, Jeffrey Kirby, Philipp Dawkins, John Muns, Morrice Abbott, Henry Garwey, John Wrag, Philipp Starkey, William Wastall, Nathaniel Martyn, John Brewer, John Warren, Paule Pynder, John Saunderson, John Fryer, Hewett Staper, Richard Barnes, Robert Hassall, Thomas Ferneley, William Bond, Thomas Bostocke, William*

<sup>1</sup> See petition, *S. P. Dom.*, Eliz. cclxxv.  
27.

<sup>2</sup> Elsewhere in the charter spelt *Garrawe* and *Garrawaie*.



*Walter, Oliver Gardyner, Bartholomew Holland, Humfrey Robinson, George Bonde, James Higgons, Lawrence Buckley, Frauncis Cherye, Roger Ofeild and Richard Aldworth*, merchants of London, That they and every of them for ever henceforth be and shall be one body corporate and politic in deed and in name by the name of **The Governor and Company of Merchants of London trading into the Levant Seas** :

And them by [that name] one body corporate and politic in deed and name really and fully for Us our heirs and successors We do erect make ordain constitute and declare by these presents :

And that by the said name [aforesaid] they shall have succession :

And that they and their successors by the name [aforesaid] be and shall be at all times hereafter persons able and capable in law and a body corporate and politic and capable in law to have purchase receive possess enjoy and retain lands tenements liberties privileges jurisdictions franchises and hereditaments of whatsoever kind nature and quality soever they be, to them and their successors, And also to give grant demise alien assign and dispose lands tenements and hereditaments and to do and execute all other things by the same name :

And that they [etc. may plead and be impleaded etc.] in whatsoever Courts and places and before whatsoever Judges and Justices and other persons and officers in all and singular actions pleas suits quarrels causes and demands whatsoever of whatsoever kind nature or sort, in such manner as any other our liege people of this our Realm of England being persons able and capable in law may or can have purchase receive [etc. ] plead [etc. ] do permit and execute :

And that the said Governor and Company [aforesaid] and their successors may have a common seal to serve for all the causes and businesses of them and their successors, And that it shall and may be lawful for the said Governor and Company and their successors the same seal from time to time at their will and pleasure to break change and to make new as to them should seem expedient :

[One of the Company] from henceforth for ever [to be elected Governor, and twelve to be elected Assistants : *Thomas Smyth* appointed first Governor for a year and then till further election ; and] *Thomas Cordell, William Garrawe, Henry Anderson, Thomas Symonds, Andrew Baynynge, Robert Offley, Robert Coxe, Thomas Garrawaie, Nicholas Salter, Raphe Fitch, Morrice Abbott, and Edward Collins* [to be first Assistants similarly] :

[Power] to and for the said Governor and Company for the time being or the more part of them present at any public assembly commonly called the Court held for the said Company (the Governor of

the said Company being always one) from time to time to elect [a Deputy Governor] which Deputy shall and may from time to time in the absence of the said Governor exercise and execute the office of Governor of the said Company in such sort as the same Governor ought to do :

[Power to meet yearly on the last day of September or within six days thereof, and to elect officers for the ensuing year, who shall take oath for faithful service] :

And in like sort We will and grant that as well everyone above named to be of the said Company or Fellowship as all others hereafter to be admitted or free of the said Company shall take a corporal oath before the Governor of the said Company or his Deputy for the time being to such effect as by the said Governor and Company or the more part of them at any public court to be held for the said Company shall be in reasonable manner set down and devised before they shall be allowed or admitted to trade or traffic as a freeman of the said Company :

[Power to appoint Assistants for the ensuing year, who shall take oath that they will] be from time to time aiding counselling and assisting unto the Governor of the said Company and his Deputy in all causes matters and things touching or concerning the said Company :

[Power to replace any officer for the residue of a year] :

And further We do by these presents for Us our heirs and successors will and grant unto the said Governor and Company of Merchants of London trading into the Levant Seas and their successors that they and all the residue of the Fellowship or Company [aforesaid] and every of them and all the sons of them and every of them at their several ages of one and twenty years or upwards and all such the apprentices of them and of every of them which have been or hereafter shall be employed in the said trade beyond the seas within the Dominions of the Grand Seignior or Seigniory or State of Venice by the space of four years or upwards by themselves or any of them or by any other that shall be free of the said Fellowship or Company shall and may by the space of fifteen years from the Feast of St. Michael the last past before the date of these our Letters Patents freely traffic and use the trade of merchandise as well by sea as by land into and from the Dominions of the Grand Seignior and into and from Venice Zante Candie and Zephoulia and other Dominions of the Seigniory and State of Venice, And also by and through the countries of the said Grand Seignior into and from the East Indies lately discovered by *John Newbery, Raphe Fitch, William Leeche*<sup>1</sup> and *James Storie* or any of

<sup>1</sup> Hakluyt (vol. v., *passim*) gives the name as Wm. Leedes.



them sent with our Letters to that purpose<sup>1</sup> and into and from every of them in such order manner form liberty and condition to all intents and purposes as shall be between them of the said Fellowship or Company of Merchants [aforesaid] or the more part of them for the time being limited and agreed and not otherwise, without any molestation impeachment or disturbance, Any law statute usage diversity of religion or faith or any other cause or matter whatsoever to the contrary notwithstanding :

[Power to assemble about the Company's business for fifteen years, and to hold Courts and make such laws as] seem necessary and convenient for the good government of the said Company and for the better advancement and continuance of the said trade and traffic, [and the said laws to execute and enforce by punishment, fine etc.,] so always as the said laws [etc.] be reasonable and not contrary or repugnant to the laws statutes or customs of this our Realm :

And We do also for Us our heirs and successors *of our special grace certain knowledge and mere motion* grant to and with the said [Company] that when and so often at any time during the said term and space of fifteen years as any custom poundage subsidy or other duties shall be due and payable unto Us our heirs or successors for any goods wares or merchandise whatsoever to be carried or transported out of our Port of London or any of the creeks havens members or places to the said Port belonging into any the Dominions aforesaid or out of or from the said Dominions into our said Port of London or any of the havens [etc.] thereof, that the customers and all other officers for the time being of Us our heirs or successors for receipt of custom poundage subsidy or other duties unto whom it shall appertain shall upon the request of the owner or owners his or their executors administrators or assigns of such goods [etc.] or of any other on his or their behalf give unto every such owner or owners his or their executors [etc.] three months time for payment of the one half and after those three months ended other three months time for the payment of the other half of their said custom poundage [etc.] for the same, receiving good and sufficient bond and security to the use of Us our heirs and successors for the true payment of the same accordingly, and upon receipt of the said bonds from time to time to give unto every such owner or owners his or their executors administrators or assigns their cocket<sup>2</sup> or other warrant to lade out and receive in the same their goods wares and merchandises by virtue hereof without any disturbance :

<sup>1</sup> Hakluyt (v., pp. 450-1) prints the letters. Fitch went overland to India by Aleppo, Baghdad, Bussorah and Ormuz (see his story, *ibid.*, pp. 464-505). The journey, 'chiefly set forth' by Osborne and Staper, led

to the founding of the East India Company.

<sup>2</sup> A sealed certificate of the due entry of merchandise and payment of customs. See form in *Select Cases in the Star Chamber* (Selden Soc.), ii., p. 292.

And that also as often as at any time during the said term of fifteen years any goods wares or merchandises of any of the said Company for the time being, their executors [etc.], laden from our Port of London or any the creeks [etc.] to any the Dominions aforesaid shall happen to miscarry or be lost before their safe discharge in the ports for and to which they be or shall be sent, that then and so often so much custom poundage [etc.] as they answered unto Us for the same shall, after due proof made before the Treasurer of England for the time being of the said loss and the just quantity thereof, be by virtue hereof allowed unto the owner or owners thereof, his or their executors [etc.], by warrant of the said Treasurer to the said customers in the next goods wares or merchandise that the owner or owners [etc.] thereof shall or may ship for those parts according to the true rates of the customs poundage or subsidies before paid for the goods wares or merchandise so lost or miscarrying or any part thereof :

And for that the said Company are like continually to bring into this our Realm a much greater quantity of foreign commodities from the foreign countries places or territories aforesaid than here can be spent for the necessary use of the same, which of necessity must be transported into other countries and there vented, We for Us our heirs and successors *of our special grace certain knowledge and mere motion* do grant to and with the said [Company] that at all times from time to time during the space of thirteen months next after the discharge of any of the same foreign commodities so brought in (the subsidies poundage customs and other duties for the same being first paid or compounded for as aforesaid) it shall be lawful for the owner and owners or any of them or any other person or persons whatsoever, being natural subjects of this Realm, which may or shall buy the same or any part of them or any of them to transport the same in English bottoms freely out of this Realm, without payment of any further custom poundage or any further subsidy to Us our heirs or successors for the same whereof the subsidy poundage customs or other duties shall be so formerly paid or compounded for as is aforesaid and so proved, And the said customer or other officer or officers to whom it shall in that behalf appertain for the time being by virtue hereof shall upon due and sufficient proof thereof made in the customhouse of or belonging to the said Port of London give them a sufficient cocket or certificate for the safe passing out thereof accordingly, And to the end that no deceit be used herein to Us our heirs or successors certificate shall be brought from the collector of the customs subsidy or other duties inwards of Us our heirs and successors to the collector of the customs [etc.] outwards that the said goods wares or merchandises



have within the time limited answered their due customs subsidy poundage and other duties for the same inwards :

And further We *of our ample and abundant grace mere motion and certain knowledge* have granted and by these presents for Us our heirs and successors do grant unto the said [Company etc.] that they and such only as be or shall be of that Incorporation or free of that Fellowship or Company shall for the said term of fifteen years have use and enjoy the whole entire and only trade and traffic and the whole entire and only liberty use and privilege of trading and trafficking and using feat of merchandise by and through the Levant Seas otherwise called the Mediterranean Seas into and from the said Dominions of the Grand Seignior and the Dominion of the State of Venice and by and through the said Grand Seignior's Dominions and to and for such places in the East Indies discovered as aforesaid :

And that they the said [Company] and every particular and several person that now be or that hereafter shall be of that Company or Incorporation shall have full and free authority liberty faculty licence and power to trade and traffic by and through the said Levant Seas into and from all and every the said Dominions of the said Grand Seignior and Dominions of the State of Venice and the said Indies and into and from all places where by occasion of the said trade they shall happen to arrive or come, whether they be Christians Turks Gentiles or others, and by and through the said Levant Seas into and from all other seas rivers ports regions territories dominions coasts and places with their ships barks pinnaces and other vessels and with such mariners and men as they will leave and have with them or send for the said trade as they shall think good at their own proper cost and expenses :

And further We *of our ample abundant grace certain knowledge and mere motion* have granted and by these presents for Us our heirs and successors do grant to the said [Company etc.] that they and such only as be or hereafter shall be free of that Company and none other shall for and during the said term of fifteen years have the sole and only bringing into this Realm of England or our Dominion of Wales from any the ports beyond the seas of all and all manner of currants oils of Candye Greek oils and wines of Candye, Yielding and paying unto Us our heirs and successors for and in consideration of these presents, and the said Governor and Company [etc.] for them and for their successors do covenant promise and grant to and with Us our heirs and successors by these presents to yield and pay for and in respect of this our present grant other than for the said wines unto Us our heirs and successors for and during the continuance of this our grant the yearly sum of four thousand pounds of lawful English money at the

Receipt of the Exchequer of Us our heirs and successors at the Feasts of the Annunciation of our Lady and St. Michael the Archangel by even and equal portions yearly to be paid, the first payment thereof to begin at the Feast of the Annunciation of the Blessed Virgin Mary next and immediately ensuing the date hereof without any manner of other charge or imposition whatsoever imposed or to be imposed or set for or upon the said currants and oils by Us our heirs or successors during the said term, customs and subsidies therefor due only excepted, And yielding and paying to Us our heirs and successors for the said wines such customs subsidies imposts and duties as are now due and paid to Us for the same :

And for that the ships sailing into the said countries must take their due and proper times to proceed in these voyages, which otherwise as We well perceive cannot be performed in the rest of the year following,<sup>1</sup> Therefore We *of our especial grace certain knowledge and mere motion* for Us our heirs and successors do grant to and with the said [Company] that in any time of restraint four good ships well furnished with ordnance and other munition for their defence and two hundred mariners Englishmen to guide and sail in the same four ships at all times during the said term of fifteen years shall quietly be permitted and suffered to depart and go into the said voyages according to the purport of these presents without any stay or contradiction by Us our heirs and successors or by the Lord High Admiral or any other officer or subject of Us our heirs or successors for the time being in any wise, Any restraint law statute usage or matter whatsoever to the contrary notwithstanding :

*Provided nevertheless* that if We shall at any time within the said fifteen years have just cause to arm our Navy in warlike manner in defence of our Realm or for offence of our enemies or that it shall be found needful to join to the Navy of Us our heirs or successors the ships of our subjects to be also armed for the wars to such a number as cannot be supplied if the said four ships should be permitted to depart as above is mentioned, Then upon knowledge given by Us our heirs or successors or by our Admiral to the said Governor and Company about the fifteenth day of the month of March or three months before the said Governor and Company shall begin to make ready the same four ships that We may not spare the said four ships and the mariners requisite for them to be out of our Realm during the time that our Navy shall be upon the seas, that then the said Governor and Company shall forbear to send such four ships for their trade of

<sup>1</sup> Compare the African and Canadian grants, *ante*, pp. xliv. (7), xc. (10).



merchandise until that We shall revoke or withdraw our said Navy from the said service :<sup>1</sup>

And further our will and pleasure is and We do by these presents grant for Us our heirs and successors that it shall be lawful to and for the said [Company] to have and use in and about the affairs of the said Company a common seal for matters concerning the said Company and trade :<sup>2</sup>

And that it shall be lawful for the merchants mariners and seamen which are or shall be used or employed in the said trade and voyages to set and place in the tops of their ships or other vessels the arms of England with a red cross in white over the same as heretofore they have used :<sup>3</sup>

And We of our further royal favour and of our special grace certain knowledge and mere motion have granted and by these presents for Us our heirs and successors do grant unto the said [Company etc.] that the said lands territories and dominions of the said Grand Seignior or the dominion of the Seignior of Venice or State of Venice or any of them within the said Levant or Mediterranean Seas shall not be visited frequented or haunted by any of the subjects of Us our heirs or successors during the said term of fifteen years contrary to the true meaning of these presents :

And by virtue of our prerogative royal, which We will not in that behalf have argued or brought in question, We straightly charge command and prohibit for Us our heirs and successors all the subjects of Us our heirs and successors of what degree or quality soever they be, that none of them directly or indirectly do visit haunt frequent or trade traffic or adventure by way of merchandise into or from the [said regions] other than the said [Company] and such particular persons as now be or hereafter shall be of that Company their factors agents servants and assigns :

*And whereas* the State and Governors of the State and Seignior of Venice have before this time set and raised a new impost and charge

<sup>1</sup> From the incorporation clause down to this point this Levant charter markedly resembles the first East India charter (of same date), except that the latter provides for transport of bullion (*ante*, p. xlix. (1), for 24 Committees instead of 12 Assistants, for meetings on 1st July instead of 30th September, and for six ships instead of four. The two companies were closely connected ; many men were members of each ; some copies or precedents of letters to the Levant are to be found at the end of the first East India Minute Book.

The Levant and East India charters of 1600 are alike mainly modelled on the Levant grant of 1592 (*ante*, p. xxxix.).

<sup>2</sup> Despite the provision already made above (at p. 32) for a common seal, our grant here repeats the words of the former Levant charter of 1592. The remaining paragraphs (except that giving power to grant licences and except the provision for rent) have the same origin.

<sup>3</sup> These words are part also of the grant to Osborne and Staper in 1581 (*ante*, p. xxxviii.).

over and besides their ancient impost custom and charge of and upon all manner of merchandises of our Realm brought into their Dominions, and also of and upon all merchandises carried and loaden from their said Country or Dominions by our subjects or in the ships or bottoms of any of our subjects to the great and intolerable charge and hindrance of our said subjects trading thither, We therefore minding the redress thereof do also by these presents for Us our heirs and successors further straightly prohibit and forbid not only the subjects of the said Seigniorie of Venice but also of all other nations and countries whatsoever other than the said Governor and Company [etc.] and such only as be or shall be of that Company their factors agents servants and assigns, that they nor any of them during the said term of fifteen years do or shall bring or cause to be brought into this our Realm of England or our Country of Wales or any part thereof any manner of small fruit called currants or oil of Candie Greek oil or wine of Candia unless it be by and with such licence and agreement of the said [Company] in writing first had and obtained under the common seal as is hereafter in these presents mentioned to be granted, Upon pain that for every such person or persons that shall trade or traffic into any the said Dominions [aforesaid] by sea or that shall bring [into England or Wales currants oil or wine as aforesaid], other than the said [Company] and their successors, shall incur our indignation and the forfeiture and loss of the goods merchandises and other things whatsoever which so shall be brought into the Realm of England or any of the Dominions of the same contrary to our said prohibition or the purport or true meaning of these presents, as also the ship and ships with the furniture thereof wherein such goods [etc.] shall be brought, The one half of all the said forfeitures to be to Us our heirs and successors and the other half of [the same] We do by these presents *of our special grace certain knowledge and mere motion* clearly and wholly for Us our heirs and successors give and grant unto the said [Company], And further all and every the said offenders for their said contempt to suffer imprisonment during our pleasure and such other punishment as to Us or our successors for so high a contempt shall seem meet and convenient, and not to be in any wise delivered until they and every of them shall become bound unto the said Governor for the time being in the sum of one thousand pounds at the least at no time then after during this present grant to sail or traffic by sea into any the Dominions aforesaid or to bring [thence] any currants raisins <sup>1</sup> of Corinth or wines of Candia

<sup>1</sup> The *Patent Rolls* spelling ('reasons of nunciation of Falstaff's 'if reasons were as Corynthe') recalls the contemporary pro- plentiful as blackberries.'



Greek oils or oils of Candia contrary to our express commandment in that behalf herein set down and published : †

And further for the better encouragement of merchant strangers and others to bring in commodities into our Realm, We for Us our heirs and successors do grant to the said [Company] that they and their successors may from time to time, for any consideration or benefit to be taken to their own use, grant or give licence to any person or persons to bring into this Realm any currants wines of Candia and oils of Candia or Greek oils, So as such licence be granted or given before such goods and wares be discharged or laid on land, and so as such licence be made by the said [Company] for the time being under their common seal :

*Provided always* and our express will is notwithstanding the premises that if our said subjects shall at any time hereafter be recompensed of and for all such new imposts and charges as they and every of them have paid or shall pay, and likewise be freely discharged of and from the payment of all manner of new imposts or taxes for any their merchandise which they hereafter shall bring into or from any the Dominions of the said State of Venice and of all other bonds and assurances by them or any of them to be made for or in that behalf, That then immediately from and after such recompense and discharge made as aforesaid our said prohibition and restraint in these presents mentioned shall not be of any strength or force against the said Seigniory and State of Venice or any the subjects thereof but for and during such time only and in such case when hereafter the said State and Seigniory of Venice shall again begin to tax and levy any manner of new impost within the said Dominions upon any the goods or merchandise of our said subjects hereafter to be brought into any the Dominions of the said State [etc.], Anything in these Letters Patents contained to the contrary thereof in any wise notwithstanding : †

And further We do straightly charge and command and by these presents prohibit all and singular customers, collectors of our customs of poundage and subsidies, and all other officers within our Port and City of London and elsewhere unto whom it shall appertain and every of them, that they or any of these by themselves their clerks or substitutes shall not receive or take or suffer to be received or taken for Us or in our name or to our use, or in the name of or to the use of our heirs or successors, of any person or persons any sum or sums of money or other considerations hereafter to be due or payable during the said term of fifteen years for any customs poundage tax or subsidy of any currants wines or oils aforesaid save of and in the name of the said [Company] or of some of that Company, without the consent of

† This clause is first found in the grant of Cordall & Co. of 1582 (*ante*, p. xxxviii.).

the Governor of the said Company under his hand and seal first had and obtained and unto them showed for the testifying of his consent : †

And for the better and more sure observation thereof We will and grant for Us our heirs and successors by these presents that our Treasurer and Barons of our Exchequer for the time being by force of these presents and the enrolment thereof in the said Court of Exchequer at all and every time and times during the said term of fifteen years at and upon the request of the said Governor and Company their attorney or attorneys deputies or assigns shall and may make and direct under the seal of the said Court one or more sufficient writ or writs close or patent unto every or any of our customers or other officers unto whom it shall appertain, commanding them and every of them that they nor any of them at any time or times during the said space of fifteen years shall take entry of any currants [wines, oils etc. aforesaid] or take or make any agreement for any custom poundage or other subsidy for any of the said currants [etc.] with any person or persons whatsoever other than with or in the name and by the privity of the said Governor and Company or some of them of the same Company : <sup>1</sup> †

And further of our especial grace certain knowledge and mere motion We have condescended and granted and by these presents for Us our heirs and successors do condescend and grant to the said [Company] that We our heirs and successors during the said term will not grant liberty licence or power to any person or persons whatsoever contrary to the tenor of these our Letters Patents to sail pass trade or traffic by the said Levant Seas into or from the said [Dominions aforesaid, or to bring hither any currants etc.] contrary to the true meaning of these presents without the consent of the said Governor and Company or the most part of them : <sup>2</sup>

And our will and pleasure is and hereby We do also ordain that it shall and may be lawful to and for the said Governor and Company or the more part of them (whereof the Governor for the time being or his Deputy to be one) to admit into and to be of the said Company any such as have been or shall be used as servants factors or agents in the trade of merchandise by the said Levant Seas into any the countries dominions or territories of the said Grand Seignior or Signiory or State of Venice or any others according as they or the most part of them shall think requisite, [the Governor or his Deputy being one] :

† This clause is first found in the grant of Cordall & Co. of 1582 (*ante*, p. xxxviii.).

<sup>1</sup> From this point the Levant and East India charters again run parallel, except that the latter has a slightly different clause dealing with non-contribution, has two

years' warning for determination instead of 18 months, has 24 persons instead of 12 in the following clause, and omits the proviso concerning non-payment of rent.

<sup>2</sup> The grants of 1581 and 1592 reserved power to nominate two other adventurers.



*Provided also* that if any of the persons before by these presents named or incorporated to be of the said Fellowship of Governor and Company [aforesaid] or any which hereafter shall be admitted to be of the same Corporation or Company shall at any time or times hereafter refuse to be of the said Company or to bear pay or be contributing to or not bear and pay such rateable charges and allowances or not observe and perform such ordinances to be made in form aforesaid as others of the same Company are or shall be ordered to bear pay or perform, that then it shall and may be lawful for the rest of the said [Company] or the more part of them to expel remove and displace every such person so refusing or not bearing paying performing or observing out of and from the said Corporation and Company and from all privileges liberties and pre-eminences which any such person should or might claim or have by virtue of this our grant, and in place of them to elect others exercising the lawful trade of merchandise to be of the same Company, And that any such person so expelled removed or displaced by consent of the said [Company] or the more part of them shall be from henceforth utterly disabled to take any benefit by virtue of this privilege or at any time after to be admitted or be received again into the same, Anything in these presents contained to the contrary notwithstanding :

*Provided always* that if it shall hereafter appear to Us our heirs and successors that this grant or the continuance thereof in the whole or in any part thereof shall not be profitable to Us our heirs and successors or to this our Realm, that then and from thenceforth, upon and after eighteen months warning to be given to the said Company by Us our heirs or successors under our or their Privy Seal or Sign Manual, this present grant shall cease be void and determined to all intents constructions and purposes :

*And further of our especial grace certain knowledge and mere motion* We have condescended and granted [etc. as aforesaid] to the said [Company] and their successors that if at the end of the said term of fifteen years it shall seem meet and convenient unto the said Governor and Company or any the parties aforesaid that this present grant shall be continued, And if that also it shall appear unto Us our heirs and successors that the continuance thereof shall not be prejudicial or hurtful to this our Realm but that We shall find the further continuance thereof profitable for Us our heirs and successors and for our Realm with such conditions as are herein mentioned or with some alterations and qualifications thereof, That then We our heirs or successors at the instance and humble petition of the said Governor and Company or any of them to be made unto Us our heirs and successors will grant and make unto the said Governor and Company or any of them so suing for the same and such other person and persons our subjects as they shall

nominate or appoint or shall be by Us our heirs or successors newly nominated not exceeding in number twelve, new Letters Patents under the great seal of England in due form of law with like covenants grants clauses and articles as in these presents are contained or with addition of other necessary articles or changing of these into some other parts for and during the full term of fifteen years then next following :

*Provided also* that if it happen the said yearly rent or sum of four thousand pounds before in and by these presents reserved or mentioned or agreed to be paid or any part or parcel thereof to be behind and unpaid in part or in all by the space of forty days next after any of the said feasts wherein the same ought as is aforesaid to be paid, That then and thenceforth these our Letters Patents and everything therein contained shall be utterly void and of none effect, Anything before in these presents to the contrary thereof notwithstanding :

Willing hereby and straightly commanding and charging all and singular our Admirals Vice-Admirals Justices Mayors Sheriffs Escheators Constables Bailiffs and all and singular other officers ministers liegemen and subjects whatsoever to be aiding favouring helping or assisting unto the said [Company] and their successors and to their deputies officers factors servants assigns and ministers and every of them in executing and enjoying the premises as well on land as on sea from time to time and at all times when you or any of you shall thereunto be required, Any statute act ordinance proviso proclamation or restraint heretofore had made or set forth ordained or provided or any other matter cause or thing whatsoever to the contrary in any wise notwithstanding :

Although express mention etc.

In witness whereof etc.

*T. R. apud Westm. xxxi. die Decembris.*

## MINERAL AND BATTERY WORKS <sup>1</sup>

(Patent Rolls, 1 Jac. I., pt. vii.)

JAMES *by the grace of God King of England Scotland France and Ireland, Defender of the Faith, etc.* To all to whom these Letters Patents shall come, Greeting :

*Whereas* our late dear sister ELIZABETH, late Queen of England [made certain grants (fully recited) to *Humfrey and Shutz, to De Voz and to Thurland and Houghsetter*].<sup>2</sup>

<sup>1</sup> See earlier charter above, p. 16; and Introduction, *ante*, pp. xevii.-c.

<sup>2</sup> See the grants set out above, pp. 16-17.



*And whereas*, for the better execution of the said grants powers authorities licences privileges benefits and immunities, and for the raising a convenient stock to be employed in the building of waterworks erecting of houses provision of wood mine and coal buying of tools and payment of wages and supply of divers other things in and about the execution of the said grants powers [etc.], they the said [*Humfrey and Shutz*] granted to divers other persons divers parts of the said grants powers etc.],

*And whereas* the said [*Humfrey and Shutz*] and most of their said grantees be sithence deceased, and all or the greatest part of the said powers [etc. are] come unto the persons hereafter named, That is to say, To our right wellbeloved *William Earl of Pembroke*, and to our right trusty and right wellbeloved Counsellor *Robert Lord Cecyll*, our Principal Secretary, and to our trusty and wellbeloved *Sir Julius Caesar*, Knight, one of our Masters of Requests,<sup>1</sup> *Sir James Pemberton*, Knight, Alderman of our City of London, *Sir William Bond* and *Sir James Lancaster*, Knights, *John Osborne*, *Thomas Cesar*, *Francis Barty the elder*, *Arnold Oldsworth*, *Christopher Toldervey*, *William Gamage*, *Charles Chute*, *Henry Tamworth* and *William Bond the elder*, Esquires, *Henry Palmer*, *Francis Barty the younger*, *Richard Danford* and *George Browne*, gentlemen, and to *Richard Martin* the younger and *Nathaniel Martyn* of our City of London, Goldsmiths, and to *Richard Collins* of our said City of London, Stationer, and to *Alexander Fownd* of our said City of London, Embroderer,

[Reciting also the expense and work of the original patentees and grantees] whereby great benefit and profit hath ensued and is like more and more to ensue to Us and our said Realms if the persons now and hereafter having interest in the powers authorities [etc.] aforesaid and the profits thereby arising might by our grant be incorporated and made a perpetual body corporate, thereby to avoid divers and sundry inconveniences which by the several deaths of the persons aforesaid or their assigns should else from time to time ensue,

*Know ye therefore that We*, earnestly minding and intending the furtherance and advancement of the right use and working of the calamine stone and other the premises are not only well contented and pleased that the said [persons abovenamed, etc., with others now interested, shall enjoy all the powers etc. specified in the above recited grants, which We hereby ratify and confirm], But also for the better and more advancement of the said working of the said calamine stone at battery works and other the premises, and to prevent such inconveniences as might

<sup>1</sup> As to Caesar and his office see Mr. Leadam's Introduction to *Select Cases in the Court of Requests* (Selden Soc. xii).

hereafter be a let or hindrance to the same, *of our especial grace certain knowledge and mere motion* [incorporate the abovenamed persons etc.] by the name of **Governors Assistants and Society of the City of London of and for the Mineral and Battery Works**,<sup>1</sup> [with words of incorporation and grants of incidental privileges and officers as in former charter<sup>2</sup>]:

[*William Earl of Pembroke and Robert Lord Cecil to be Governors; Francis Barty the elder and Thomas Cesar to be Deputies; Oldsworth, Toldervey, Chute, William Bond the elder, Palmer, Danford, Richard Martyn the younger and Nathaniel Martyn to be Assistants; all these to hold office till the first Thursday in December next after this date, etc.*]:

[Provision for holding Courts, making rules, admitting and expelling members; exemption from jury service; power to execute justice; power to purchase lands, ordain penalties, punish members; power and machinery of arrest; indemnity etc.]:\*

[Officers Mayors etc. to be aiding the Society]:\*

And to the end the said [Society] shall and may the better for ever enjoy have take and use all and singular the [privileges etc. granted] in the said former several recited Letters Patents made unto the said *Humfrey and Shutz* according to the intent and good meaning in the same specified or intended, and minding to supply and reform some of the defects of the said former Letters Patents according to the true meaning thereof, *We of our especial grace certain knowledge mere motion and prerogative royal* [hereby grant etc. to the Society etc., their workmen etc., power etc. to search dig and mine for calamine stone in England and the English Pale in Ireland, and to work the stone etc. make battery wares etc.; and to search dig mine and try the same area for ores simple and mixed of gold silver copper quicksilver etc., and for other minerals etc., tin and lead etc.<sup>3</sup>; and the said ores etc. to treat, and houses etc. to erect]:\*

Nevertheless the said [Society] by their successors grantees or assignees or any of them shall not dig search mine under or work in any houses edifices gardens orchards or courts joining to any house or houses or in any close or grounds enclosed with walls belonging to any our subjects without the good will and consents of such as have power to license them so to do, or in under or near to any the castles

<sup>1</sup> This varies the title given by the first charter; see *ante*, p. 19, and cf. p. xvi. (5).

<sup>2</sup> See above, p. 19.

\* As in former charter; see above, pp. 19-20.

<sup>3</sup> Except in the Principalities and Counties expressed above, p. 4, and except for copperas and alum, as above, p. 17.



forts or fortresses of Us our heirs or successors or under or near to any house or houses of access for Us our heirs or successors without special licence obtained for the same : †

And the said [Society etc.] shall also reasonably and sufficiently satisfy recompense and make amends to all and every owner fermor or possessor of all or any the grounds lands and possessions aforesaid of and for all such damages and losses as by them or any of them from time to time shall be committed or done to the detriment of any grass corn woods or quarries or of any other profit or commodity whatsoever usually before the said [Sept. 17th 1565<sup>1</sup>] taken or enjoyed or that in right might before then have been taken or enjoyed in or upon the same grounds or soils : †

And in any case where the parties cannot agree amongst themselves for the said damage and loss, that then four indifferent men to be elected between them shall assess and rate the recompense of or for the same as they shall think in conscience to be reasonable and sufficient : †

And if it shall happen the said four men indifferently elected as is aforesaid not to agree in the rating and assessing of the recompense aforesaid, then the matter to be brought before the Council of Us our heirs or successors and by our or their said Council to be determined according to the laws and customs of our Realm where the same shall be : †

And to avoid and provide that none other person or persons might unduly receive take or have the benefit use practice or commodity either of the feats practice and use of the said calamine stone, or of the said melting compounding working or manuring of latten and battery plate and wire, or of the rare feats practices devices tools engines or instruments framed brought in setted up or first put in use or practice within our said Realms and Dominions or any of them by the said [Humfrey and Shutz or their assigns etc.] before the said [Sept. 17th 1565], or at any time or times sithence first framed brought in set up or put in use and practice, or to be first framed brought in set up or put in use and practice within our said Realms and Dominions or any of them by the said [Society, their successors assigns etc.], for upon concerning or about the working manuring melting getting compounding or use of their said mines minerals ores matters metalline or any of them or the waterworks belonging to the said mines or for upon or concerning any of them, but only the said [Society etc.], Our will and pleasure is, and by these our Letters Patents for Us our heirs and successors We do straightly prohibit charge and command all our loving subjects and all and every other person and persons whatsoever

<sup>1</sup> The date of the grant to Humfrey and Shutz, see *ante*, p. 16.

† As in charter of 1584 (see *ante*, p. xcix.).

at any time or times hereafter, not to attempt or go about or take in hand to use or employ the said calamine stone, or to dig or make search for the same in any place within our said Realms or either of them or within any the Dominions territories borders or confines of the same or of either of them, or to melt mix compound or to make into plate or wire any of the said latten battery iron iron or steel, or otherwise or by any other means or with any other instrument engine tool or device than they did use and occupy the said [Sept. 17th 1565], or else as they had customably used and occupied at any time within one and twenty years next before the said [Sept. 17th], either to attempt take in hand or go about any manner of way directly or indirectly within any the lands grounds or possessions aforesaid within either our said Realms or within the Dominions territories [etc. as above] at any time hereafter, to dig open mine get melt or work any of the said ores metals treasures of the earth or other the substances aforesaid or any of them, or for any of the same to make search contrary to our grant abovementioned, nor to use occupy imitate or counterfeit any tool instrument or engine in for and about the digging opening mining getting melting working or manuring of or for all and singular the premises or any of them which was first devised or put in use or practice or which was brought in to be put in use or practice within our said Realms or Dominions or any of them by the said [*Humfrey* or *Shutz*, their servants assigns etc.] or which hath been or shall be first devised brought in or put in use or practice within the same our Realms and Dominions or any of them by he said [Society their successors etc.], unless they first shall have obtained he licence grant and agreement of the said [Society etc.] or of the more part of them thereunto in writing under their common seal : †

And also our like will and pleasure and express commandment is that no person or persons do attempt or enterprise to hinder stay let or disturb the said works or any of them or the said [Society etc. their workmen etc.], neither to attempt take in hand or go about the order or manner of working melting getting or manuring any the substances aforesaid wth the like tools instruments or inventions or any of them as were or heretofore have been first framed used or practised by the said [*Humfrey* or *Shutz* etc., their assigns servants etc.], or which shall be hereafter first framed devised used or practised by the said [Society etc.] for or about all and singular the premises or any of them without the special licence grant and agreement in writing of and from the said [Society their successors assigns etc.] first had and obtained, Upon the forfeiture for every offence to be committed or

† As in charter of 1584 (sec *ante*, p. xcix )



done contrary to the tenor of these presents of the sum of one hundred pounds of lawful money of England, The one moiety of every of the said forfeitures to be to Us our heirs and successors and the other moiety to the said [Society], And also upon such further pain punishment and imprisonment as We our heirs or successors by the laws of our said Realms or either of them or by our prerogative and regal jurisdiction may any way tax assess or impose or cause to be assessed taxed or imposed on the offenders in that behalf : †

And for the more furtherance of the said works for the benefit of Us our Realm and subjects We do give and grant by these presents [etc. full power to the Society etc.] to take up at reasonable wages and prices, anywhere within our said Realms and either of them and within the territories dominions borders and confines of them and either of them as well all manner of artificers and workmen instruments matter stuff and necessities for the said works and building only appertaining or convenient to or for the sciences arts or business above specified or any other the premises, as also to buy and take in bargain of any manner of person and persons any woods underwoods timber and timber trees whatsoever, not being timber of oak elm or ash nor being within three miles of any our castles or houses of access or of any city or town corporate by charter, And the same and every of them to cut down employ or convert, and to make into coals fit and convenient to be occupied and without fraud or guile to be employed in and about the only digging mining and searching for the said calamine stone or in about or for the melting compounding working or manuring of iron steel latten battery plate and wire of latten iron and steel and every or any of them, or in and about the digging mining opening boiling roasting sifting washing melting stamping draining or conveying of waters for the said mines or otherwise working or trying out of all and every of the said ores mines metals treasures and minerals aforesaid or any of them, Any Act or Acts statutes ordinances provisions proclamations clauses articles restraints or other matter cause or thing whatsoever heretofore had made or done or hereafter to be had made or done to the contrary of this our present grant and Letters Patents in any wise notwithstanding :<sup>1</sup> †

And We do also grant for Us our heirs and successors unto the said [Society etc.] full power licence and authority to buy and take in bargain of any manner of person and persons any woods underwoods timber or timber trees of oak elm or ash or standing or growing in any cliff or like places inconvenient overchargeable unapt or not fit for ordinary

<sup>1</sup> Various statutes forbade the cutting of timber-trees; see 1 Eliz., c. 15, 27 Eliz.,

e. 19. Cf. *ante*, p. lxix (6).

† As in charter of 1584 (see *ante*, p. xcix).

carriages to any creek haven or port or to any of our castles or houses of access, and the same also and every part thereof to cut down [make into coals etc. for working purposes etc., any Act etc. notwithstanding, as above]:<sup>1</sup> †

And We do further grant for Us our heirs and successors and are contented and pleased that whensoever We our heirs or successors shall think meet to have any other part of our Realm of Ireland than the English Pale to be searched digged or converted to the uses of any minerals above mentioned, That then the said [Society etc.] shall have like privilege power and authority and shall have like profit and commodity in such other parts of Ireland out of the English Pale as they have may or shall claim have and enjoy in the parts called the English Pale by virtue of these our Letters Patents, to all intents and constructions as though the same had been specially conveyed in this grant: †

[The grants to *Thurland* and *Houghstetter* and to *De Voz* to remain effectual]: †

And for the desire and good hope that the work by grant of these our Letters Patents to be attempted shall have good proof success and continuance, our like will and pleasure is that these our Letters Patents and all and every the articles and grants therein contained shall stand remain and abide firm stable continual and inviolable to be put in use according to the intent and meaning of the same, Any Act statute [etc. as above] notwithstanding:

*Provided always*, notwithstanding any clause article or matter in these presents, that if at any time hereafter We shall be disposed to take or resume into our disposition this former grant or licence expressed in our recited Letters Patents for the searching digging opening roasting melting stamping washing or draining of waters or otherwise working or melting down of the said mines or ores of gold silver copper or quick-silver, That then We shall and may resume and detain the same power in our own possession to be used only to our own proper use and not to be granted to any other person or persons, So as before We shall resume the same the said [Society etc.] shall be well and sufficiently recompensed and satisfied of all their charges costs expenses losses and interests in such manner and with such sums of money as shall be adjudged by six persons citizens of London, whereof two to be Aldermen of the City, and three of the said six to be named by Us or the Lord Treasurer of England for the time being, and the other three to be named by the said [Society] or, in default of nomination within one month after nomination made

<sup>1</sup> See statutes 35 H. VIII., c. 17, 23 Eliz. c. 5, 43 Eliz., c. 7 (cutting underwoods), etc.

† As in the charter of 1584 (see *ante*, p. xcix.).



for Us as aforesaid, then the other three to be nominated by the Lord Mayor of London for the time being, and those six to be charged and sworn before the Lord Mayor of our said City of London for the time being to consider and understand the truths of the demand and petition of the said [Society] for the full recompense, whereof the said six persons so sworn shall make and deliver in writing to the Lord Treasurer of England for the time being a certificate of such sums of money as they shall judge reasonable to be paid by Us for the said recompense and satisfaction as above is mentioned : †

And thereupon the Lord Treasurer shall have full power by force of these presents, without any other warrant or order from Us, to make full and certain payment thereof out of the Receipt of our Exchequer to the said [Society etc.] : †

And if We after the resumption of the premises shall be disposed at any time to grant the said power or authority above mentioned to any other person or persons, That then the said Governors Assistants and Society their successors grantees and assignees shall have the preferment to have the same before any other upon such condition as any other shall without covin or fraud offer for the same to our benefit and commodity : †

And for the better execution of the premises<sup>1</sup> We will and command to all and singular our Justices Barons of our Exchequer and to our Sergeants at law Attorney and Solicitor Generals and to all other our officers and ministers whatsoever, That the said [Society etc.] shall have and enjoy all the benefit of these presents from and after the said [Sept. 17th 1565], And that our said Justices Barons Sergeants Attorney Solicitor and other our officers or ministers aforesaid or any of them do not receive allow or suffer to be prosecuted in any of our Courts any action information suit or process against the said [Society etc.] for or touching any matter or thing in or by these presents granted, Any Act or law statute or ordinance aforesaid whatsoever to the contrary hereof notwithstanding, and as they tender the performance of our good pleasure in this behalf and will answer for the contrary at their peril :

† As in the charter of 1584 (see *ante*, p. xcix.).

<sup>1</sup> The charter of 1584 (*ante*, p. xcix.) here runs, 'And forasmuch as We are credibly informed that, by means of the iron wire works which the said [Society] have erected at Tintern in our County of Monmouth, the perfect knowledge of the making of the same wire which was there at their

great charge first begun by strangers and now by their further charge and industry is brought to be wrought and made most exactly by our own natural subjects, whereby not only there but in many other cities, boroughs, and towns of our Realm many of our poor subjects are sustained and set on work, Therefore we will and command' . . .

Although express mention etc.

In witness whereof etc. witness our self at Westminster the xxiith day of January

*per breue de privato sigillo etc.*

## NEWFOUNDLAND COMPANY<sup>1</sup>

(Patent Rolls, 8 Jac. I., pt. viii.)

JAMES *by the Grace of God of Great Britain France and Ireland King, Defender of the Faith etc.*, To all people to whom these presents shall come, Greeting :

*Know ye whereas* divers our loving and well-disposed subjects are desirous to make plantation to inhabit and establish a colony or colonies in the southern and eastern parts of the country and isle or islands commonly called Newfound Land, unto the coast and harbours whereof the subjects of this our Realm of England have for the space of fifty years and upwards yearly used to resort in no small numbers to fish, intending by such plantation and inhabiting both to secure and make safe the said trade of fishing to our subjects for ever, and also to make some commendable benefit for the use of mankind by the lands and profits thereof which hitherto from the beginning (as it seemeth manifest) hath remained unprofitable, and for better performance of such their purpose and intentions have humbly besought our regal authority and assistance,

We being well assured that the same land or country adjoining to the foresaid coasts where our subjects use to fish remaineth so destitute and so desolate of inhabitants that scarce any one savage person hath in many years been seen in the most part thereof, And well knowing that the same lying and being so vacant is as well for the reasons aforesaid as for many other reasons very commodious for Us and our Dominions, And that by the law of nature and nations We may of our royal authority possess our selves and make grant thereof without doing wrong to any other prince or state, considering they cannot justly pretend any sovereignty or right thereunto in respect that the same remaineth so vacant and not actually possessed and inhabited by any Christian or any other whomsoever,

<sup>1</sup> See Introduction, *ante*, pp. xxxv.-xxxviii. Letters between Walsingham and Thos. Aldworth (*post*, p. 52), then Lord Mayor of Bristol, printed by Hakluyt, viii., pp. 132-4, show how Bristol was interested. Its merchants received information from Capt. Carleill (Walsingham's son-in-law) and Hakluyt himself.



And therefore thinking it a matter and action well beseeming a Christian King to make true use of that which God from the beginning created for mankind, and thereby intending not only to work and procure the benefit and good of many of our subjects but principally to increase the knowledge of the Omnipotent God and the propagation of our Christian faith,

Have graciously accepted of the said intention and suit, And therefore do of our special grace certain knowledge and mere motion for Us our heirs and successors give grant and confirm by these presents unto our right dear and right wellbeloved Cousin and Counsellor *Henrie Earle of Northampton*, Keeper of our Privy Seal, and to our trusty and right wellbeloved *Sir Lawrence Tanfeild Knt*, Chief Baron of our Exchequer, *Sir John Doddridge Knt*, one of our Sergeants at law, *Sir Frauncis Bacon Knt*, our Solicitor General, *Sir Daniell Dun*, *Sir Walter Cope*, *Sir Percivall Willoughby* and *Sir John Constable*, Knts, *John Weld Esquire*, *William Freeman*, *Raphe Freeman*, *John Slany*, *Humfrey Slanye*, *William Turner*, *Robert Kirkam gent.*, *John Weld gent.*, *Richard Fishborne*, *John Browne*, *Humfrey Spencer*, *Thomas Juxon*, *John Stokeley*, *Ellis Crispe*, *Thos Alporte*, *Frauncis Needham*, *Willyam Jones*, *Thomas Langton*, *Phillipp Gifford*, *John Whittington*, *Edward Allen*, *Richard Bowdler*, *Thomas Jones*, *Symon Stone*, *John Short*, *John Vigars*, *John Juxon*, *Richard Hobby*, *Robert Alder*, *Mathewe Haveland*, *Thomas Aldworth*, *Willyam Lewis*, *John Guy*, *Richard Hallworthie*, *John Langton*, *Humfrey Hooke*, *Phillipp Guye*, *Willyam Merridith*, *Abram Jennings*, and *John Doughtye*, their heirs and assigns, and to such and so many as they do or shall hereafter admit to be joined with them in form hereafter in these presents expressed, whether they go in their persons to be planted in the said plantation or whether they go not but do adventure their monies goods and chattels, That they shall be one body or communalty perpetual, and shall have perpetual succession, and one common seal to serve for the said body or communalty and they and their successors shall be known called and incorporated by the name of **The Treasurer and the Company of Adventurers and Planters of the City of London and Bristol for the Colony of Plantation in Newfoundland** :

And that they and their successors shall be likewise enabled by the name aforesaid to plead and be impleaded before any our Judges or Justices in any of our Courts and in any actions or suits whatsoever :

And We do also of our said special grace certain knowledge and mere motion for Us our heirs and successors give grant and confirm unto the said Treasurer and Company and their successors under the reservations limitations and declarations hereafter expressed, All that part and

portion of the said country commonly called Newfound Land which is situate lying and being to the southward of the parallel line to be conceived to pass by the cape or headland commonly called or known by the name of Boniviste<sup>1</sup> inclusive, which cape or headland is to the northward of the bay commonly called Trinitye Baye, and also which is situate lying or being to the eastward of the meridian line to be conceived to pass by the cape or headland commonly called or known by the name of Cape Sancta Maria or Cape Saint Maries inclusive, which cape or headland is to the eastward of the bay commonly called the Bay of Placentia, together with the seas and islands lying within ten leagues of any part of the sea coast of the country aforesaid, and also all those countries lands and islands commonly called Newfound Land which are situate between forty and six degrees of northerly latitude and two and fifty degrees of the like latitude, And also all the lands soil grounds havens ports rivers mines, as well royal mines of gold and silver as other mines, minerals<sup>2</sup> pearls and precious stones woods quarries marshes waters fishings huntings hawkings fowlings commodities and hereditaments whatsoever, together with all prerogatives jurisdictions royalties privileges franchises and preeminences within any the said territories and the precincts thereof whatsoever and thereto or thereabouts both by sea and land being or in any sort belonging or appertaining and which We by our Letters Patents may or can grant, and in as ample manner and sort as We or any of our noble Progenitors have heretofore granted to any company body politic or corporate or to any adventurer or adventurers undertaker or undertakers of any discovery plantation or traffic of in or unto any foreign parts whatsoever, and in as large and ample manner as if the same were herein particularly mentioned and expressed :

Nevertheless our will and pleasure is and We do by these presents express and declare that there will be saved and reserved unto all manner of persons of what nation soever and also to all and every our loving subjects which do at this present or hereafter shall trade or voyage to the parts aforesaid for fishing, all and singular liberties powers easements and all other benefits whatsoever as well concerning their said fishing as all circumstances and incidents thereunto in as large and ample manner as they have heretofore used and enjoyed the same, without any impeachment disturbance or execution, anything in these presents to the contrary notwithstanding :

<sup>1</sup> Cape Bonavista projects on the east-ern side of the island of Newfoundland. Placentia Bay is on the south-east side, separated by a headland on the east from St. Mary's Bay.

<sup>2</sup> No iron mines being found, leave was afterwards obtained to transport 1000 tons of material for iron bars (*Acts of Privy Council (Colonial)*, 1613-1680, p. 34).



To have hold possess and enjoy all and singular the said lands countries and territories with all and singular other the premises heretofore by these presents granted or mentioned to be granted to them the said Treasurer and Company their successors or assigns for ever, to the sole and proper use of them the said Treasurer [etc.] to be holden of Us our heirs and successors as of our manor of East Greenwich in the County of Kent in free and common socage and not *in capite*, Yielding and paying unto Us our heirs and successors the fifth part of all the ore of gold and silver that from time to time and at all times hereafter shall be there gotten had and obtained for all services duties and demands :

*And forasmuch as* the good and prosperous success of the said plantation cannot but chiefly depend, next under the Blessing of God and the support of our royal authority, upon the provident and good direction of the whole enterprise by a careful and understanding Council, And that it is not convenient that all the Adventurers shall be so often drawn to meet and assemble as shall be requisite for them to have meetings and conferences about their affairs,<sup>1</sup>

Therefore We do ordain establish and confirm that there shall be perpetually one Council consisting of twelve persons here resident in London which shall govern and order all matters and causes which shall arise grow or happen by reason of the said plantation or which shall or may concern the government of any colony or colonies to be established in any the said territories or countries of Newfound Land before limited or any the precincts thereof, Which Council shall have a seal for the better government and administration of the said plantation besides the legal seal of the Company or Corporation, Each of which seals shall have our arms engraven on the one side thereof and our portraiture on the other side, And that the legal seal of the said Treasurer and Company shall have engraven round about on both sides thereof these words, *Sigillum Thesaurarii et Communitatis Terre Noue*, and that the seal of the Council shall have engraven round about on the one side these words, *Sigillum Regis Magne Britannie Franc. et Hibernie*, and on the other side this inscription round about, *Pro Consilio Terre Noue* : <sup>2</sup>

And further We establish and ordain that *Sir Percivall Willoughby Knt, John Welde Esquire, Raphe Freeman, Richard Fishburne, John Stokeley, Willyam Turnor, Willyam Jones, John Slany, Humfrey Slany, John Weld, Thomas Juxon and Thomas Jones* shall be the Council for the said Company of Adventurers and Planters in the said territories

<sup>1</sup> This paragraph is taken from the second Virginia charter (1609 ; see *ante*, p. lxxxiv.).

<sup>2</sup> Cf. first Virginia charter (*ante*, p. lxxxiv.).

and countries before limited, And the said *John Slanye* We ordain to be Treasurer of the said Company, which Treasurer shall have authority to give order for the warning of the Council and summoning the Company to their Courts and meetings, And the said Council and Treasurer or any of them shall be from thenceforth nominated chosen continued displaced changed altered and supplied, as death or other several occasions shall require, out of the Company of the said Adventurers by the voice of the greater part of the said Council and Adventurers in their assembly for that purpose :

And We do also by these presents of *our special grace certain knowledge and mere motion* ordain establish and agree for Us our heirs and successors, That the said Treasurer and Company shall or lawfully may establish and cause to be made a coin to pass current in the said territories of or in Newfound Land before limited between the people inhabiting in any the said territories or in any the precincts thereof for the more ease of traffic and bargaining between and amongst them of such nature and of such metal and in such manner and form as the said Council here shall limit and appoint : <sup>1</sup>

And We do by these presents of *our special grace certain knowledge and mere motion* for Us our heirs and successors grant unto the said Treasurer and Company and their successors that if it happen at any time or times the Treasurer for the time being to be sick or to have any such cause of absence from the City of London as shall be allowed by the said Council or the greater part of them assembled, so as he cannot attend the affairs of that Company, in every such case it may and shall be lawful for such Treasurer for the time being to assign constitute and appoint one of the Council for that Company to be likewise allowed [as aforesaid] to be the Deputy Treasurer for the said Company, Which Deputy shall have power to do and execute all things which belong to the said Treasurer during such time as such Treasurer shall be either sick or otherwise absent upon cause allowed of [as aforesaid] so fully and wholly and in as large and ample manner and form to all intents and purposes as the said Treasurer if he were present himself may or might do and execute the same : \*

And further [etc. We etc.] grant full power and authority to the said Council here resident as well at this present time as hereafter from time to time to nominate make constitute ordain and confirm by such name or names style or styles as to them shall seem good, and likewise to revoke discharge change and alter, all and singular governors officers

<sup>1</sup> Adapted from first Virginia charter (*ante*, p. lxxxiv.).

\* As in second Virginia charter (*ante*, p. lxxxiv.).



and ministers which hereafter by them shall be thought fit and needful to be made or used for the government of any colony or plantation to be had or made of or in any of the said territories of Newfound Land before limited and by these presents granted or meant to be granted, And also to make ordain and establish all manner of orders laws directions instructions forms and ceremonies of government and magistracy fit and necessary for and concerning the government of the said colony or colonies and plantation or plantations, and the same at all times hereafter to abrogate revoke or change, not only within the precincts of the said colony or colonies but also upon the seas in going or coming to and from the said colony or colonies, as they in their good discretions shall think to be fit for the good of the adventurers and inhabitants there :<sup>1</sup> \*

And We do hereby ordain that immediately from and after such time as any such governor or principal officer so to be nominated and appointed by the said Council for the government of any colony or colonies aforesaid shall arrive in Newfound Land or in any the territories aforesaid and give notice of his commission in that behalf, all officers governors and ministers formerly constituted or appointed shall be discharged, Straitly charging them and commanding them and every of them and every other person resident or which hereafter shall reside in the said colony or colonies upon their allegiance that they forthwith be obedient to such governor or governors as by the said Council here resident shall be named and appointed as aforesaid and to all directions orders and commandments which they shall receive from them as well in their present resigning and giving up their authorities offices charges and places as in all other attendance as shall be by them from time to time required : \*

And we do further by these presents ordain and establish that the said Treasurer and Council here resident in London and their successors or any five of them being assembled (the Treasurer being one) shall from time to time have full power and authority to admit and receive any other person into their Company Corporation or freedom, And further in a general assembly of the Adventurers with the consent of the greater part upon good cause to disfranchise and put out any person or persons out of the said freedom and Company : \*

And We do also grant and confirm for Us our heirs and successors that it shall be lawful for the said Treasurer and Company and their

<sup>1</sup> Charles II. confirmed their laws (*Patent Rolls*, 12 Car. II., pt. xvii. : see discussion in *Acts of Privy Council (Colonial)*, 1613-1680, pp. 556, 559-563. There had

been friction between planters and merchants (*ib.*, p. 21).

\* As in the Virginia charter (*ante*, p. lxxxiv.).

successors by direction of the Governors there to dig and to search for all manner of mines of gold silver copper iron lead tin and other minerals as well within the precincts aforesaid as within any part of the main land not formerly granted to any other, and to have and enjoy the gold silver [etc.] and all other minerals to be gotten thereby to the use and behoof of the said Company of planters and adventurers, Yielding therefore and paying yearly unto Us our heirs and successors as aforesaid without any other manner of profit or account to be given or yielded to Us our heirs or successors for or in respect of the same : \*

And We do further *of our special grace certain knowledge and mere motion* for Us our heirs and successors grant by these presents to and with the said Treasurer and Company and their successors, That it shall be lawful and free for them and their assigns at all and every time and times hereafter out of our Realm of England and out of all other our Dominions to take and lead into the said voyage and for and towards the said plantations all such and so many of our loving subjects or any other strangers that will become our loving subjects and live under our allegiance, as shall willingly accompany them in the said voyage and plantation, with sufficient shipping armour weapons ordnances munitions powder shot victual and such merchandises or wares as may be fitting to transport and carry into those parts, and clothing implements furniture cattle horses and mares and all other things necessary for the said plantation and for the use and defence and trade with the people there if any be inhabiting in the said country or shall come out of other parts there to trade with the said planters and in passing and returning to and fro all such commodities or merchandises as shall be from thence brought, without yielding or paying subsidy customs or imposition or any other tax or duty to Us our heirs or successors for the space of seven years from the date of these presents, *Provided* that none of the said persons so taken and carried for the plantation be such as shall be hereafter by special name restrained by Us our heirs or successors : <sup>1</sup> \*

And that for their further encouragement *of our special grace and favour* we do by these presents for Us our heirs and successors yield and grant to and with the said Treasurer and Company and their successors and every of them their factors and assigns, that they and every of them shall be free and quit of all subsidies and customs in Newfound Land or any the territories or precincts aforesaid for the space of one and twenty years and from all taxes and impositions forever upon any goods

\* As in second Virginia charter (*ante*, 1578 (*ante*, p. xxxv.), and the first Virginia charter, p. lxxxiv.).

<sup>1</sup> Compare Humfrey Gilbert's grant of



or merchandises at any time or times hereafter either upon importation thither or exportation from thence into our Realm of England or into any other of our Dominions by the said Treasurer and Company and their successors their deputies factors and assigns or any of them except only the five pounds *per centum* due for customs upon all such goods and merchandise as shall be brought or imported into our Realm of England or any other of these our Dominions according to the ancient trade of merchants, which five pounds *per centum* only being paid it shall be thenceforth lawful and free for the said Adventurers the same goods and merchandises to export and carry out of our said Dominions into foreign parts without any customs tax or other duty to be paid to Us our heirs or successors or to any other our officers or deputies, *Provided* that the said goods and merchandises be shipped out within thirteen months after the first landing within any part of those Dominions : \*

And We do also confirm to the said Treasurer and Company and their successors as also grant to all and every such governors or other officers or ministers as by the said Council shall be appointed to have power and authority of government and command in or over any colony or plantation in any the limits or precincts aforesaid, that they and every of them shall and lawfully may from time to time and at all times for ever hereafter for their several defence and safety encounter expulse repel and resist <sup>1</sup> by force and arms as well by sea as by land and by all ways and means whatsoever all and every such person and persons whatsoever as without the special licence of the said Treasurer and Company and their successors shall attempt to inhabit within the said several precincts and limits of the said colony or plantation and also all and every such person and persons whatsoever as shall enterprise or attempt at any time hereafter destruction invasion hurt detriment or annoyance to the said colony or plantation : \*

And it shall be lawful for the said Treasurer [etc. as aforesaid] from time to time and at all times hereafter, and they shall have full power and authority, to take and surprise by all ways and means whatsoever all and every person and person whatsoever with their ships goods and other furniture trafficking in any harbour creek or place within the limits and precincts of any colony or plantation to be made in any the limits or precincts aforesaid, and, being allowed by the said Company to be adventurers and planters of the said colony, until such time as they, being of any Realms or Dominions under our obedience, shall pay or agree to pay, to the hands of the Treasurer or of some other officer deputed by the governor in any the said territories or precincts

\* As in second Virginia charter (*ante*, p. lxxxiv.).

<sup>1</sup> Cf. Humfrey Gilbert's grant of 1578 *ante*, p. xxxv.

aforesaid, over and above such subsidy and custom as the said Company is<sup>1</sup> or hereafter shall be to pay, five pounds *per centum* upon all such goods and merchandises so brought in thither other than such as shall be brought in for the necessary use of fishing as hath been heretofore accustomed, and also five pounds *per centum* upon all goods by them shipped out from thence other than fish and other necessities requisite to fishing, And, being strangers and not under our obedience, until they have paid, over and above such subsidy and custom as the same Treasurer and Company and their successors is or hereafter shall be to pay, ten pounds *per centum* upon all such goods likewise carried in and out, And the same sums of money and benefits as aforesaid for and during the space of one and twenty years shall be wholly employed to the benefit and behoof of the said Company or plantation, and, the said one and twenty years ended, the same shall be taken to the use of Us our heirs and successors by such officer and minister as by Us our heirs and successors shall be thereunto assigned and appointed : \*

Also We do for Us our heirs and successors grant and declare by these presents that all and every the persons being our subjects which shall go and inhabit within any colony or plantation within any the precincts aforesaid, and every of their children and posterity which shall happen to be born within the limits thereof, shall have and enjoy all liberties franchises and immunities of free denizens and natural subjects within any of our other Dominions to all intents and purposes as if they had been abiding and born within this our Realm of England or any other of our Dominions : \*

*And forasmuch* as it shall be necessary for all such our loving subjects as shall inhabit within the said territories or precincts of Newfoundland aforesaid to determine to live together in the fear and true worship of Almighty God Christian peace and civil quietness each with other, whereby every one may with more safety pleasure and profit enjoy that whereunto they shall attain with great pain and peril,<sup>2</sup> We for Us our heirs and successors are likewise pleased and contented and by these presents do give and grant to the said Treasurer and Company and their successors and to such governors officers and ministers as shall be by the said Council constituted and appointed according to the natures and limits of their offices and places respectively, that they shall and may from time to time for ever hereafter within the said territories or precincts of Newfoundland or in the way by

<sup>1</sup> The use of the singular is perhaps rare enough to be specially noted : see Introduction, *ante*, p. cxxxiii.

\* As in second Virginia charter (*ante*, p. lxxxiv.).

<sup>2</sup> These phrases are to be found in Humfrey Gilbert's grant of 1578, and Raleigh's of 1584 (see *ante*, pp. xxxv., xxxvii.).



the seas thither and from thence have full and absolute power and authority to correct punish pardon govern and rule all subjects of Us our heirs and successors as shall from time to time adventure themselves in any voyage thither or that shall at any time hereafter inhabit in the precincts and territories of the said land called Newfound Land aforesaid according to such orders ordinances constitutions directions and instructions as by the said Council as aforesaid shall be established, and in defect thereof in cause of necessity according to the good discretions of the said governors and officers respectively as well in cases capital and criminal as civil, So always as the said statutes ordinances and proceedings as near as conveniently may be shall be agreeable to the laws statutes government and policy of this our Realm of England : \*

And We do further of our *special grace certain knowledge and mere motion* grant declare and ordain that such principal Governor or Governors as from time to time shall duly and lawfully be authorised and appointed in manner and form in these presents heretofore expressed, shall have full power and authority to use and exercise martial law in cases of rebellion or mutiny in as large and ample manner as our Lieutenants in our counties within our Realm of England have or ought to have by force of their commission of Lieutenancy : <sup>1</sup> \*

And furthermore if any person or persons adventurers or planters of the said colony or any other at any time or times hereafter shall transport any monies goods or merchandises out of any our Kingdoms with a pretence or purpose to land sell or otherwise dispose the same within the limits and bounds of any the said territories or precincts of or in Newfound Land, and yet nevertheless, being at sea or after he hath landed within any part of the said territories and precincts, shall carry the same into any foreign country with a purpose there to sell and dispose thereof, that then all the said goods and chattels of the said person or persons so offending and transporting, together with the ship or vessel wherein such transportation was made, shall be forfeited to Us our heirs and successors : \*

And further our will and pleasure is that in all questions and doubts that shall arise upon any difficulty of construction or interpretation of any thing contained in these our Letters Patents, the same shall be taken and interpreted in most ample and beneficial manner for the said Treasurer and Company and their successors and every member thereof : <sup>2</sup> \*

\* As in second Virginia charter (*ante*, p. lxxxiv.).

<sup>1</sup> Cf. *ante*, p. lxxxv. (3).

<sup>2</sup> Here the second Virginia charter has a

clause confirming the first Virginia grant. Otherwise, as the recurrent asterisks show, the Newfoundland charter is a close and continuous copy.

And finally our will and pleasure is, and We do further hereby for Us our heirs and successors grant and agree to and with the said Treasurer and Company and their successors that all and singular person and persons which shall at any time or times hereafter adventure any sum or sums of money in or towards the said plantation of any colony or colonies in Newfound Land or any the territories or precincts thereof, and shall be admitted by the said Council and Company as adventurers of the said Company in form aforesaid and shall be inrolled in the Book or Record of the adventurers of the said Company, shall and may be accounted accepted taken held and reputed adventurers of the said colony and shall and may enjoy all and singular grants privileges liberties benefits profits commodities advantages and emoluments whatsoever as fully largely amply and absolutely as if they and every of them had been precisely plainly singularly and distinctly named and inserted into these our Letters Patents : \*

And lastly because the principal effect which We can desire or expect of this action is the conversion and reduction of the people in those parts (if any be there inhabiting) unto the true worship of God and Christian religion, in which respect We would be loth that any person should be permitted to pass that We suspected to affect the superstitions of the Church of Rome, We do hereby declare that it is our will and pleasure that none be permitted to pass in any voyage from time to time to be made into the said country but such as first shall have taken the Oath of Supremacy, for which purpose We do by these presents give full power and authority to the Treasurer for the time being and any three of the Council and to every three such person or persons as shall be by the said Treasurer and any three of the said Council thereunto authorised (whereof the Treasurer for the time being to be one), and to any our Mayors Bailiffs or any other our chief officer or officers in any our ports havens or towns where any such person or persons shall take shipping to tender and exhibit the said oath to all such persons as shall at any time be sent and employed in the said voyage to remain or plant there : \*

*Provided always* and our will and pleasure is, and We do hereby declare to all Christian Kings Princes and Estates, that if any person or persons which shall hereafter be of any colony or plantation in any the territories or precincts of Newfound Land before limited or any other by his their or any of their licence or appointment shall at any time or times hereafter rob or spoil by sea or land or do any act of unjust or unlawful hostility to any the subjects of Us our heirs or successors or

\* As in second Virginia charter (*ante*, p. lxxxiv.).



any the subjects of any King Prince Ruler Governor or Estate being in league and amity with Us our heirs or successors, or that upon such injury or upon just complaint of such Prince Ruler Governor or State or their subjects We our heirs or successors shall make open proclamation within any the parts of our Realm of England commodious for that purpose, that the said person or persons having committed any such robbery or spoil shall within the time to be limited by such proclamation make full restitution or satisfaction of all such injuries done, so as the said Princes and others so complaining may hold themselves fully satisfied and contented, And that if the said person or persons having committed such robbery or spoil shall not make nor cause to be made satisfaction accordingly within such time so to be limited, that then it shall be lawful to Us our heirs and successors to put the said person or persons having committed such robbery or spoil out of our allegiance and protection, and that it shall be lawful and free for all Princes and others to pursue with hostility all the said offenders and every of them :<sup>1</sup>

Witness our self at Westminster the second day of May

*per breue de priuato sigillo.*

## MERCHANTS TRADING TO FRANCE<sup>2</sup>

(Patent Rolls, 9 Jac. I., pt. xxxv.)

JAMES *by the Grace of God King of England Scotland France and Ireland, Defender of the Faith etc.*, To all our officers ministers and subjects and all our people as well within this our Realm of England as elsewhere within our obeisance and jurisdiction as otherwise, unto whom these our Letters shall be seen shewn or read, Greeting :

*Whereas* it is our princely care and desire to maintain and increase traffic and navigation in our Kingdom and Dominions not only by protection defence and comfort of our merchants but likewise by reducing matters of trade to that policy and form of regiment as may cause the same to flourish as well in credit and reputation as quietness and plenty, both which can hardly be severed but have a necessary dependence the one upon the other,

<sup>1</sup> This clause follows Humfrey Gilbert's grant of 1578, Raleigh's of 1584 (see *ante*, pp. xxxv., xxxvii.), and the first (but not the second) Virginia charter.

<sup>2</sup> See Introduction, *ante*, p. xxvi. The charter is a close copy of the Spanish merchants' grant of six years before (*ante*, p. xxv. (4), where the differences are noted).

*And Whereas* our merchants trading to France, being a great and worthy part of the general state of merchants of this our Kingdom, have found by continual and certain experience that their trading without any order society or government amongst themselves hath bred very many inconveniences to their great damage and prejudice both in general and in particular, and that the same doth daily more and more increase to the great peril and danger of the said trade, have therefore been humble suitors unto Us that, as well for the prevention of such inconveniences hereafter as for the better conservation of the Treaty lately made with our good Brother the late French King bearing date at Paris the four and twentieth day of February one thousand six hundred and five<sup>1</sup> for the better maintenance and continuance of that trade, the violating whereof by particular persons may draw on very great damage and peril upon the general, the same trade may be established under such form of government as unto Us shall seem good and convenient,

We graciously inclining to their so dutiful and reasonable petition as knowing that no commerce or intercourse can be maintained or continue without order good direction and government, and yet thinking it our part to temper the same in that manner as may stand best with our princely ends and proceedings, do first declare and signify that our intention and resolution is not to appropriate the same trade neither to any city town or place nor to any limited number of merchants nor to suffer it to be used at all in any degree of monopoly, but to lay open the same to all using only trade of merchandise and being willing to enter thereunto upon such conditions as shall necessarily belong to the support of the same, so that by this our charter and grant the freedom of the said trade shall be in no sort abridged but the confusion of the same only avoided,

*Know ye that We* for the considerations aforesaid and for divers other good causes and considerations Us thereunto especially moving of our especial grace certain knowledge and mere motion have willed ordained constituted and declared, and by these presents for Us our heirs and successors We will ordain [etc.], and further by these presents have given granted and confirmed and for Us our heirs and successors do give grant and confirm, unto our right dear and right wellbeloved Counsellor *Thomas Lord Ellesmere*, our Chancellor of our Realm of England, our right dear and right wellbeloved Cousins and Counsellors *Robert Earle of Salisbury*, our High Treasurer of England, *Henry Earle of Northampton*, Keeper of our Privy Seal, and *Charles Earle of Nottingham*, our High Admiral of England, our dear and wellbeloved

<sup>1</sup> See Rymer, *Foedera*, xvi., p. 645; and *ante*, p. xxvi.



Counsellors *Sir Julius Cesar*, Knight, Chancellor of our Exchequer *Sir Thomas Parrye Knt*, Chancellor of our Duchy of Lancaster, our well-beloved subjects *Sir George Carewe Knt*, *Sir Thomas Edmondes Knt*, our Ambassador with our loving Brother the French King, *Sir Henry Nevill Knt*, *Sir Daniell Dun Knt*, our Master of Requests, *Sir Thomas Lake Knt*, Clerk of our Privy Signet, *Sir Stephen Soame*, *Sir Thomas Cambell*, *Sir John Swynnerton* and *Sir John Jawles*, Knights and Aldermen of our City of London, *Sir Thomas Smithe Knt*, *John Corbett Esquire*, Clerk of our Privy Council, *Levinus Muncke Esq.*, Clerk of our Privy Signet, *William Cockaine*, Alderman of our City of London, *John Eldred*, *John Hall the elder*, *John Highlord*, *Reginald Greene*, *Humphrey Basse*, *William Cater*, *William Harrison*, *Augustine Skynner*, *Nicholas Leate*, *Thomas Francklyn*, *Robert Bell*, *Thomas Horton*, *Thomas Fryer*, *William Bonde*, *Brian Jonson*, *Brian Kinnaston*, *James Cambell*, *William Speighte*, *John Bowser*, *William Chambre*, *John Potter*, *John Lee*, *Nicholas Exton*, *John Hall the younger*, *John Parham*, *Francis Taylor*, *William Willaston*, *Thomas Church*, *Richard Archedale*, *Nicholas Smithe*, *Humfrey Phipps*, *Thomas Sneade*, *William Jenninge*, *William Leveson*, *Emanuel Francklyn*, *William Barnabye*, *John Barnabye*, *Humfrey Hall*, *John Sherrington*, *John Worsoppe*, *John Dade*, *Rowlande Lee*, *Edmund Plummer*, *Thomas Plummer*, *Rowland Helyn*, *Richarde Smithe*, *William Palmer*, *William Thurstone*, *Richard Syms*, *Raphe Wighte*, *George Chambers*, *Robert Cambell the younger*, *Edward Browne*, *Ottywell Smithe*, *George Benson*, *Daniell Hall*, *Peeter Beavoir*, *George Robbins*, *Richard Corne*, *Barnard Cowper*, *William Casson*, *John Bolton*, *Thomas Hyde*, *Andrewe Taylor*, *Roger Gifford*, *Jobe Harby*, *William Greene*, *Thomas Willett*, *Richard Baldocke*, *Henry Bowdocke*, *Roger Dimster*, *Thomas Thorold*, *George Dunscombe*, *Edward Overinge*, *Ellis Kinnaston*, *Thomas Beanley*, *John Beanley*, *Alexander Barnabye*, *Edward Cason*, *John Highlord the younger*, *Thomas Hall*, *Henrye Kinneresley*, *George Langhorn*, *Marmaduke Rawden*, *Henrye Hill*, *John Chapman*, *Nicholas Lockwoode*, *Richard Gore*, *John Newman*, *Richard Wiche*, *William Towerson*, *William Megge*, *Humfray Walcott*, *Giles Parslowe*, *Thomas Moulson*, *Richard Venne*, *Samuel Hare*, *Richard Welbye*, *John Gore*, *William Gore*, *Robert Gore*, *Raphe Gore*, *Humfrey Browne*, *James Wiche*, *George Whitmore*, *Thomas Morley*, *John Westwrey*, *Henry Poulsteed*, *John Browne*, *Clement Harbye*, *Thomas Owen*, *John Sharpulls*, *William Bateman*, *John Bridges*, *William Hollidaye*, *John Bonner*, *Thomas Wrighte*, *Henrye Vincente*, *Anthonye Stubbs*, *John Burton*, *Adrian Moore*, *John Morris*, *Richard Walthall*, *John Kinge*, *William Stone*, *George Sotherton*, *Thomas Meade*, *Robert Geffreys*, *Christopher Eyres*, *William Burton*, *Robert Storyes*, *Thomas Hampson*, *Leonard*

Toose, John Payne, Robert Lewis, Raphe Freeman, Hewett Staps, Thomas Hick, Edward James, Richard Ball, Christofer Clitherowe, John Burnell, Henrye Bennett, Thomas Wrighte, Henrye Heyward, William Cockaine, William Mors, Richard Moore, John Coote, William Browne, Robert Greenewaye, Thomas Hayne, John Edmundson, John Levitt, Robert Sandye, Richard Aldsworthe, Morris Abbott, David Bourne, Thomas Bastocke, Thomas Havers, Bartholomewe Holland, Thomas Cutler, William Walton, John Derham, John Dyke, William Wonder, Abraham Perse, Hughe Hamersley, Robert Middleton, Robert Bateman, Thomas Stile, Nicholas Crispe, William Millett, Thomas Boothbye, Humfrey Handford, Edmund Lutterford, Jeffrey Kirbye, George Eyres, Lawrence Greene, Edmund Wynn, Christofer Landman, Thomas Chace, Robert Angell, Luke Walthall, George Holman, Richard Waltham, Thomas Stone, Edward Lawman, Robert Jeney, Edward Greute, Thomas Southicke, Richard Andrewes, Robert Garrard, John Stockley, John Browne, Richard Fishborne, Vallentine Moretoste, Robert Wrighte and Abraham Dawse, merchants of our said City of London, Percyvall Brooke, William Paycocke, George Rosse, William Brearey, Henry Thompson, Ellis Myckelthwaite, John Wadesworthe, William Dobinson, Christofer Dickenson, Henrye Bannester, William Shawe, Symon Martin, John Whitfeild, Arthure Brooke, Thomas Kaye, Robert Belte, Henry Brooke, John Lasenby, Richard Bayne, Thomas Sigeswicke, Mathewe Topham, Christofer Robinson, Yorke Horner, Thomas Longe, William Scott, Christofer Herbert, Thomas Robinson, James Foxcrofte, John Robinson, John Harte, Thomas Horner, Myles Swayne, Abraham Hemingwaye, John Withes, Edmund Cowper, merchants of our City of Yorke, John Brewster the younger, Thomas Russell, John Adland, Henrye Bowle, Daniell Baker, John Cuffe, merchants of our City of Gloucester, Thomas Sherwill, Robert Trelawney, William Parker, John Martyn, Walter Mathewe, William Downeman, John Battersby, Richard Kinge, John Waddon, Thomas Fownes, John Clemente, Abraham Colmer, Leonard Pommerye, William Canne, William Lawrence, William Burche, John Page, Richard Spurwell, John Canne, Nicholas Blake, Thomas Ceely, merchants of our town of Plymouthe, Richard Burgis, Thomas Thackrey, Thomas Swanne, William Barnard, Michael Selbye, Nicholas Calverte, Thomas Bulmer, Adam Birckdell, Robert Chapman, William Chapman, Robert Coldcott, Launcelott Roper, John Richardson, Josua Lynne, George Swanne, Edward Richardson, William Bayocke, Mathias Jackson, Nicholas Louley, Edward Prestwood, John Pecke, Thomas Scoles, Robert Scott, James Watkinson, John Barker, Leonard Hewett, Michael Prestwood, Josephe Feilde, James Casson, John White, merchants of our town of Kingston-upon-Hull, Sir John Jeffrey Knt, John Longe, Edward Barlowe,



Richard Cornelius, William Nevey, Robert Chambers, John Cornishe, Thomas Bedford, William Marywell, Phillippe Toldervey, Christofer Cornelius, Richard Dulbye, Thomas Stouer, Richard Singleton, John Bigge, Henrye Plummer, Charles Durvoll, John Courtney, Edward Ezton, John Hersante the younger, William Singleton, John Barlowe, John Elvey, Peeter Priant, Peeter Fryer, merchants of our town of Southampton, Thomas Every, Henry Every, Christofer Brookinge, Walter Dottyn, John Shapley, Richard Lee, William Ducke, Christofer Wise, John Wise, Richard Roade, William Tillard, Thomas Prestwoode, Thomas Martyn, Lawrence Adlams, Eustace Wise, Richard Leere, Bartholomewe Laskey, William Martyn, Richard Martyn, Richard Belfyelde, Mathewe Caine, Richard Dottyn, John Warren, Thomas Prideaux, Richard Kellond, Allyn Brookinge, Christofer Kellond, John Kellond, Nicholas Wise, William Wise, Samuell Wise, John Trist, Robert Gwynne, John Wackham, Richard Norris, Walter Dowse, Henrye Austen, William Bogan, Richard Lacye, Christofer Brodridge, Thomas Smith, Richard Newman, Walter Smithe, John Kenycott, John Lacye, Christofer Maynard, Peeter Martyn, John Pitt, Edward Goulde, William Yeo, Barnard Addams, William Addams, Edward Searle, Christofer Upton, Richard Carye, Christofer Cape, Leonard Blackall, merchants of our town of Totnes, Walter Francis, Bennet Flinte, John Smith, William Bogan, Thomas Abraham, Nicholas Flinte, Thomas Ball, William Gurnay, Robert Gruwell, Nicholas Strawe, Nicholas Deane, Edward Stephens, Roger Mathewe, Andrewe Wakeham, merchants of our town of Dartmouth, Mathewe Brownerigge, William Bloise, Robert Snellinge, Jeremye Darber, Samuell Cutler, James Tillott, John Rand, Thomas Woodgate, Robert Knappe, Robert Thurstone, Anthonye Beale, Walter Snellinge, John Clenche, Michael Goodyer, William Grymwoode, Nicholas Freeman, Robert Lymmer, Augustine Parker, William Glascocke, Edward Rivett the younger, Thomas Eldred, Nicholas Pecke, Joseph Pecke, Thomas Kynwellmarshe, Edward Man the younger, Thomas Knappe the younger, Richard West, Leonard Knappe, Roger Cutler, Christofer Cardinall, John Evererd, merchants of our town of Ipswich, Peeter Baron, Leonard Cammocke, Nicholas Smithe, William Barnabye, John Cammocke, Robert Childe, John Dutton, Anthonye Hawkrid, merchants of our town of Boston, John Michell, Henrye Jones, George Paule, John Stradlinge, Noe Kendall, Robert Quircke, John Godbeare, John Wipple, Edmond Wipple, Humfrey Blake, merchants of our town of Bridgwater, Thomas Fisher, Roberte Davidge, William Dare, Andrewe Hendley, Hugh Godfall, John Bellamy, Robert Dreamer, James Reynolds, Thomas Crocker, William Hill, William Edney, merchants of our town of Taunton, Richard Blachford, William Whitewaye, John Parkins, Thomas

*Blacheford, Walter Goulde, John Golde the younger, Henry Golde, Thomas Forde, Thomas Whittell, merchants of our town of Dorchester, Giles Brooke, William Brooke, James Traves, merchants of our town of Liverpool, William Grilles, William Kedley, John Jacob, Mathewe Edgcombe, Thomas Edgcombe, merchants of our town of Tauestocke, John Herberte, John Harvy, merchants of our town of Sandwiche, Stephen Hodgson, Henry Hales, Richard Newton, merchants of our town of Lewis, John Shurt, Thomas Antonye, Baptiste Tooker, Anthonye Dennys, Richard Downe, George Shurte, merchants of our town of Bideford, John Harwarde, John Bramble, James Haviland, William Hill, merchants of our town of Poole, Richard Beople, Richard Harris, Richard Doddridge, James Beople, Nicholas Downe, Bartholomewe Harris, James Woodroffe, James Downe, George Baker, Henry Crosse, Penticoste Doddridge, John Norris, William Shapleigh, John Salisbury the elder, William Gaye, John Darracote, William Palmer the younger, John Delbridge, John Hanmer, Henry Beople, Justinyan Westcombe, Thomas Westlake, Gilbert Harris, Gilbert Paige, Robert Collibeare, George Gaye, Richard Ferris, John Salisbury the younger, John Ayre, Phillippe Smithe, John Mules, merchants of our town of Barnestaples,<sup>1</sup> and to every of them and to their and every of their sons whatsoever and all and every other merchant and merchants which shall hereafter from time to time be admitted or made free in such manner and form as hereafter in these presents is declared and specified and their and every of their sons whatsoever,*

That they shall be one Fellowship and one body corporate and politic in deed and in name by the name of **Governor and Company of Merchants of London Trading into France and the Dominions thereof :**

[Hereby erected and declared one body corporate, with perpetual succession ; to be capable in law to have, purchase, &c., manors, messuages, lands, tenements &c.] of whatsoever kind nature form and quality to them and their successors in fee or perpetuity or otherwise for term of life or years, not exceeding the value of forty pounds *per annum*, and also to give [dispose of, &c. the same] to the value aforesaid or under, and to [execute all acts &c. concerning the same, the statutes of Mortmain &c. notwithstanding ; power to sue and be sued &c. and have a common seal <sup>2</sup> ] :

<sup>1</sup> The geographical distribution of these patentees may be compared with that of the Merchants Trading into Spain and Portugal (see *ante*, p. xxv). The charter of the latter (Patent Rolls, 3 Jac. I., pt. vi.) shows their local numbers as follows :—London 237, Bristol 97, Exeter 45, Bridg-

water 11, Yarmouth 2, Chester 4, Plymouth 12, Kingston-upon-Hull 7, Tiverton 14, Taunton 11, Chard 15, Totnes 43, Lyme 14, Barnstaple 12, Southampton 8, and Ipswich 15.

<sup>2</sup> Abbreviated clauses as in *Levant charter, ante*, p. 32.



[One of the Company to be elected Governor ; *Sir Thomas Cambell* to be first Governor for a year ;] sixteen discreet persons of the said Company resident and remaining within our City of London or the liberties thereof [to be Assistants ; *Reginald Greene, Humfrey Basse, Robert Bell, William Harrison, Bryan Jonson, William Carter, James Cambell, William Palmer, William Speighte, John Parham, Richard Archedale, William Willaston, Humfrey Phipps, Francis Tayler, John Hall* and *Thomas Church* to be first Assistants for a year : power to elect] one of the said Company abiding and dwelling within our said City of London to be Deputy to the said Governor for the time being for and concerning the matters and businesses of the said Company, and likewise one other person of the said Company to be Deputy to the said Governor in any other city town or port within this our Realm wherein any number of merchants free of the said Company shall be inhabiting or resident, which Deputy and Deputies shall and may from time to time in the absence of the Governor exercise and execute the office of Governor in such sort as the said Governor ought to do, and shall continue in the said office or offices of Deputy or Deputies to the said Governor during the pleasure of the said Governor Assistants and Company for the time being or the most part of them and to be removed when the Governor and Assistants or the greater part of the said Company present at any General Court, the Governor for the time being one, shall think fit :

And furthermore for the greater increase and advancement of trade and traffic and for the enriching of our loving subjects being mere merchants, We do for Us our heirs and successors straitly charge and command the said Governor and Company [aforesaid] that they and their successors shall from time to time and at all times hereafter admit and receive into their said Company and to be free of the same all and every such person and persons being subjects of Us our heirs and successors as now are or hereafter shall be mere merchants using the trade of merchandise only and not being retailers shopkeepers clothiers handicraftsmen leigiers <sup>1</sup> or factors using buying or selling in Blackwell Hall <sup>2</sup> in our said City of London and not under the age of twenty-five years and not within his or their apprenticeship and which by the laws and statutes of this our Realm of England may lawfully use the trade of merchandise from or unto this Realm of England, so as such person or

<sup>1</sup> So spelt in Patent Rolls : cf. *ante*, p. xlii (6) ; an agent or representative (see *N.E.D.*, *s.v.* ledger).

<sup>2</sup> Blackwell Hall, adjoining the Guildhall Chapel to the south, facing Guildhall Yard, was sold in 1398 by Richard II. to the

Mayor and Corporation, and became a mart for the exposing and selling of woollen cloths. It is called 'the common cloth-market' in statutes 4 & 5 P. & M. c. 5, s. 26, and 39 Eliz. c. 20, s. 12. Cf. 8 & 9 Will. III. c. 9.

persons require to be made free of the said Company within one whole year next ensuing the date of this our grant and shall offer and pay unto the said Governor and Company for the time being at the time of his or their admittance the sume of four pounds for his and their freedom in that behalf :

And that they and their successors shall also from time to time admit and receive into their said Company and to be free of the same all and every such person and persons being subjects [&c. and being mere merchants &c. as aforesaid] which now are or hereafter shall be above the age of twenty-four years and out of [apprenticeship, if they require their freedom] within one year next after he or they attain the age of twenty-five years or within one year next after the end of his or their apprenticeship and shall offer and pay [as aforesaid on admittance] the sum of four pounds for his freedom in that behalf :

And [shall also admit such persons being mere merchants &c.] which shall have neglected their freedom of the said Company by the space of one year next ensuing the date of these presents, so as such person or persons [so neglecting now to be made free within one year, or neglecting hereafter to be made free] within one year next after he or they shall attain the full age of twenty-five years or within one year after the end of his or their apprenticeship as is aforesaid, do and shall require to be made free of the said Company at any time whensoever after the aforesaid space or time of one year and shall offer and pay [&c.] the sum of ten pounds for his freedom in that behalf :

And our further will and pleasure is, and We do hereby grant unto the said [Company] that all and every the sons of all and every such as are or shall be of the said Company or Corporation and also all their apprentices employed in that trade by the space of two years or upwards within the dominions of France aforesaid, whether those years of employment be wholly within their apprenticeship or partly within their apprenticeship and partly after their apprenticeship ended, and whether those years of employment be jointly together or at several times amounting to two years or upwards, shall from time to time and at all times hereafter after their several apprenticeships fully ended and wholly employed in the service of their masters upon presenting of their or any of their name or names unto the Governor of the said Company for the time being or his Deputy or Deputies and upon payment of the sum of five shillings only for the freedom of each and every such son or apprentice unto such officer or other person as by the [Company or greater part] shall be appointed for the receipt thereof, shall and may be admitted to become free of the said Company and Corporation [aforenamed] :



And touching such apprentices of all and every person or persons as are or shall be of the same Company or Corporation [not employed in the said trade for two years or upwards as aforesaid] our will and pleasure is that every or any person or persons now being or which hereafter shall be free of the said [Company] shall or may once in every five years next ensuing the date hereof make one such his apprentice free of this [Company] albeit the same apprentice have not been employed as aforesaid, paying at his admittance the sum of ten shillings unto such officer [as aforesaid] :

And our further will and pleasure is, and by these presents for Us our heirs and successors We will and grant unto the said [Company] that all and singular such sum and sums of money as at any time or times hereafter shall be due received or paid for and in respect of any admittance or admittances unto the said incorporation [aforenamed] by force and virtue of these presents shall from time to time be employed and bestowed to and for the use and behoof of the said [Company aforenamed] for and towards the discharging and defraying of the charges debts and monies as well heretofore sustained grown or taken up as hereafter to be sustained to grow or to be taken up for the maintenance support and defraying of the necessary and reasonable charges of the said Company :

*And Whereas* by the said Articles of Treaty concluded at Paris as is aforesaid for the more commodious intercourse of traffic between the subjects of Us and the subjects of the said Most Christian French King it is among other Articles comprehended and agreed that for the better provision and remedy of any grievances or difficulties which may arise in commerce or traffic between the subjects of either Kingdom there should be in the City of Roane<sup>1</sup> named and appointed by the said Christian King or his successor two merchants of good credit and reputation, which with two English merchants to be named by the Ambassadors of Us our heirs and successors residing for the time in France shall jointly receive and hear the complaints and controversies of the merchants of Us our heirs and successors that may arise by commerce or traffic either at Roane or any of the ports of that province, and the same forthwith according to equity and right having respect to the said Treaty shall speedily finish and compose, as also that our self our heirs and successors should name two English merchants which, likewise taking unto them two French merchants of like quality to be named by the Ambassador of the said French King or his successors residing in England for the time, should do the like, which four if they could not agree then by mutual assent between themselves they should

<sup>1</sup> See *ante*, p. xxvi.

choose and take unto them a fifth, the same being in Roane a Frenchman and in London an Englishman, and so by the greater number of these the judgment pass, the like order to be observed in all places of mart and market and cities of France and likewise in the cities of Great Brittain and Ireland, for the better execution whereof commission with authority to perform the same or either part should be given, which merchants as well English as French so to be chosen on either part should be called *Conservators of Commerce and Traffic* and be appointed from year to year and should take oath faithfully to perform the office and authority given and committed unto them according to the said Treaty as in and by the said Articles of Treaty more at large doth and may appear.

We do therefore for Us our heirs and successors, for the better information of Us our heirs and successors how to choose and appoint fit persons to be the said Conservators of Commerce and Traffic, charge and command the said [Company] that the said Governor for the time being or his Deputy with the assent of the Assistants or the greater part of them shall from year to year or as often as need shall require set down and deliver unto Us our heirs and successors in writing for the cities of England, and to the Ambassador of Us our heirs and successors for the time being in France for the cities in France, such a number of names as to them shall seem good of discreet and sufficient men of their Company to be Conservators, out of which number or otherwise at our will and pleasure We our heirs and successors will be pleased from time to time to make choice of two persons, and likewise our Ambassador for the time being by direction from Us our heirs or successors or otherwise at his discretion may and shall likewise from time to time make choice of two persons according to the prescript of the said Treaty :

[Power to the Company yearly on November 10th or within fourteen days after] to assemble and meet together in some convenient place within our said city of London to be appointed from time to time by the said Governor or in his absence by his said Deputy for the time being, And that they being so assembled [may elect a Governor and Deputies and] sixteen of the best and most discreet persons of the said Company to be Assistants [for the following year ; all such persons to take corporal oath ; provision for oath ; if any die or upon just cause be removed] for any misdemeanour by them committed in the execution of their said office, for which cause it shall be lawful for the said Company at their general assembly in the presence of the Governor and Company or his Deputy or Deputies and the greater number of the Company assembled to displace any officer formerly chosen, [power to replace such officer] :



[Power to assemble, hold Courts, and make statutes laws ordinances &c..] as well for the good rule and government of the said [Company] as of all and singular other subjects of Us our heirs and successors intermeddling or by any means exercising merchandise in any part or parts of the Dominion of France, [and such laws to put in execution, revoke &c.; to impose pains and penalties] by imprisonment of body or fines or amerciements or by all or any of them to be extended upon and against all and every offender contrary to such statutes laws [ordinances &c., as to the Company seem necessary; power to levy fines] to the use of the said Governor and Company and their successors without the impeachment of Us our heirs or successors and without any account therefore to Us our heirs or successors to be rendered or made :

All [which statutes &c.] We will to be observed [&c. under such penalties], so as the same statutes [&c.] be not contrary or repugnant to the laws and statutes of this Realm nor contrary repugnant or derogatory to any treaties leagues capitulations or covenants between Us our heirs and successors or any other Prince or Potentate made or to be made, nor tending to the hindrance of the trade and traffic of any of the said Company behaving him or themselves duly and orderly as becometh good merchants of the said Company without any fraudulent or disordered attempts or practices :

And also We will and by these presents for Us our heirs and successors We do grant to the said Company that the said Governor his Deputy or Deputies and Assistants aforesaid or the more part of them for the time being together with the consent of the greater part of the Company assembled at a General Court may and shall have full and whole power and authority from time to time at their will and pleasure to assess and set reasonable and convenient sums of money as well upon the merchandise to be transported or carried out of this Realm of England or Dominions of the same into France or any the parts or Dominions thereof as also upon all other merchandise to be transported out of France [etc.] in or to this Realm of England or Dominions of the same or elsewhere, and upon every ship laden with the said merchandise as to them shall seem requisite and convenient for the common profit and sustentation of the necessary and reasonable stipends and other charges of the said Company and Corporation :

And further we will and by these presents for Us our heirs and successors do grant to the said [Company] that if any of the said Company or other person or persons which shall use the trade of merchandise into the said Dominions of France or any part thereof shall refuse to pay or shall not pay the said sums of money so to be assessed

[&c.] as aforesaid or shall offend or do against the advancement of the said trade and traffic and the common profits of the privileges and liberties of the said Company granted, or contrary to any article clause or grant herein contained, or against any statutes acts or ordinances by the said Governor or his Deputy or Deputies and Assistants aforesaid or the greater part of them in manner and form aforesaid to be made, or shall refuse to pay the said sum or sums of money fine or fines forfeiture or forfeitures or penalties due assessed or appointed to be by them paid by the said Governor [&c.] or by the said acts or ordinances or any of them, or if any person or persons whatsoever by any means directly or indirectly or by way of complaint or by any other cautel<sup>1</sup> device confederation or intelligence<sup>2</sup> with any foreign prince or potentate or magistrate or with any stranger born attempt or cause to be attempted or break violate or make void these our privileges or any of them or any articles in these presents contained to the said [Company] granted whether it be within this our Realm of England or elsewhere, that then and so often it may and shall be lawful to the said Governor [Deputies and Assistants &c. present at any Court] and to the Deputy and Deputies or any other officer established or appointed in any port town or other place of this our Realm of England by the said [Company] such obstinate offenders and ill-doers to chastise and correct by imprisonment or otherwise by fine or amerciamment or other reasonable punishment according to the quality of the fault or offence as by the said Governor [Deputies and Assistants &c.] shall be ordained and adjudged, And that then and so often it shall be lawful to and for the said Governor [&c.] or to and for their officer or officers in that behalf by them appointed and authorised to enter into any house shop warehouse cellar or ship where any goods or merchandise of such offender or offenders or person or persons so refusing to pay the said fines and penalties imposed on him or them shall be or remain, and the same goods or merchandise to distrain and the distress and distresses there found to take seize carry away detain and keep until the same fines and penalties and every of them shall be fully satisfied contented and paid to the said Governor [&c.] according to the true intent and meaning of these presents :

And for that divers persons our subjects being not brought up in merchandise or use of traffic but altogether ignorant and unexpert as well in the order and rule of merchandise as in the laws and customs in France and the Dominions thereof and in all other things belonging to

<sup>1</sup> 'Crafty device, artifice, stratagem';  
N.E.D.

<sup>2</sup> Mutual conveyance of information,  
especially used of the communications of

spies: see N.E.D., and cf. 'intelligencer.'

A similar clause occurs in Elizabeth's charter to the Spanish merchants, see Introduction, ante, p. xxiii.



merchandise very necessary, through their ignorance and lack of knowledge do commit many inconveniences and absurdities, We willing to prevent and meet with such inconveniences and intending to help the expert and exercised merchants in their honest and lawful trade and to establish good order and government in the said trade, *of our more ample and abundant grace certain knowledge and mere motion* have granted [and hereby grant to the Company] that they only which now are or hereafter shall be of this Corporation or free of this Company and none other shall have use and enjoy any trade or traffic or any liberty use or privilege of trading or trafficking and using the trade and feat of merchandise or to France or any the parts or dominions thereof :

And therefore We will and by virtue of our prerogative royal do straitly charge command restrain and prohibit [our subjects from trading thither except members of this Company <sup>1</sup>] upon pain not only to incur our indignation but also to pay unto the said Governor and Company their Deputies Conservators and officers employed either within this our Realm of England or any the parts and dominions of France by way of fine or penalty for such their contempts and offences after the rate of twenty pounds upon the hundred according to the value of their goods so traded into the places where their goods or ships shall be found, the one moiety whereof to be to Us our heirs and successors and the other moiety thereof We do [grant to the Company], any law statute custom or ordinance heretofore made or put in use to the contrary notwithstanding :

And further we straitly charge [etc. all our customs officers &c.] and all our farmers of all our customs subsidies and impositions and all other officers as well within the port of our city of London as in all other our ports within our Realm of England [&c. that they take no entry &c.<sup>2</sup>] of any goods wares or merchandise to be transported into the Dominions of France [and make no agreement &c., except in the case of members of the Company ; direction to Exchequer officials to make sufficient writs accordingly <sup>3</sup>] :

Willing hereby and straitly charging [all Admirals &c. to be aiding &c.<sup>4</sup>] unto the said Governor and Company and to their officer and officers agents and ministers in the executing and enjoying the premisses :

[Provision on admittance for each member's oath] for his or their good behaviour in the Company aforesaid and for the performance of all the lawful orders and ordinances made and to be made for the good government of the said Company :

<sup>1</sup> As in *Levant charter*, above, p. 39.

<sup>2</sup> As *ibid.*, p. 41.

<sup>3</sup> As *ibid.*, p. 41.

<sup>4</sup> As *ibid.*, p. 43.

And moreover We will and for Us our heirs and successors do grant by these presents to the said [Company] that the said Governor or his Deputy and the Assistants of the said Company for the time being or the mere part of them being together with the assent of the greater part of the Company present at any General Court, shall and may from time to time remove expel disfranchise and put out of the said Company any of the said Company which they shall know or by good testimony made before them find to be retailers clothiers shopkeepers handicraftsmen ligiers<sup>1</sup> or factors using buying or selling in Blackwell Hall aforesaid and not to be mere merchants, or which shall fall into exercising or practising of offences and practices of evil misdemeanour for the breaking of any act statute or ordinance of the said Company for their good government made and published, and that all persons so amoved disfranchised or excluded from thenceforth shall by no means intermeddle or use any trade of merchandise or traffic within the said Kingdom of France or the Dominions thereof :

[Power to appoint] officers and ministers as well within our City of London and all other places of our Realm of England and other our Dominions as also in the said parts beyond the seas [for executing the Company's affairs and receiving or levying by distress all sums of money fines forfeitures penalties &c.] of all and every persons as well of the said Company being as also of all and every other person and persons which shall attempt to use and exercise any trade or merchandise in France or any the parts or dominions thereof as aforesaid and shall be condemned or found culpable for their evil government or offence against these our Letters Patents or any statute act or ordinance by the said Governor [etc.] to be made by virtue of these our Letters Patents :

And further We will and by these presents for Us our heirs and successors do charge and command all and every Mayors Sheriffs Justices Bailiffs Constables Customers and all and every other the officers and ministers of Us our heirs and successors to support aid assist and help the said Governor [Deputies, Assistants &c.] in executing the said statutes acts and ordinances and to punish the offenders and transgressors until they be fully satisfied according to the penalties and fines by the said statutes [etc. appointed] :

And if it shall happen that the said Governor or his Deputy or Deputies and the Assistants of the said Company or their successors for the time being or the greater part of them at any Court or Assembly upon misbehaviour or contempt of the laws and ordinances of the said Company do commit any of the said [Company] or any other the subjects or liege

<sup>1</sup> See *ante*, p. 68, note (1).



people of Us our heirs or successors to any gaol or prison according to the authority hereby given to the said Governor and Company for any offence against the said statutes [&c.] done or committed, then We will and command and for Us our heirs and successors by these presents do grant unto the said [Company] that from time to time all and every wardens and keepers of all our gaols and prisons shall receive into their custody and prison all and every person or persons to him or them sent by the Governor [etc.], and there safely keep him and them at the costs and charges of the said offender or offenders without any enlargement without the consent and assent of the said Governor [&c.] until he or they shall be dismissed released or enlarged, and that neither We our heirs or successors by any means shall remit or release such offender or offenders out of prison under bail or mainprise without the assent of the said Governor [&c.] and until the said offenders and every of them in all things shall satisfy the said Governor [&c.] according to the statutes [&c.] aforesaid and shall pay such and so many fines penalties forfeitures and amerciements as by the said Governor [&c.] he or they for such offences and contempts shall be adjudged to pay, All and every which pains fines [&c.] shall be gathered received and levied to the use of the said [Company] and their successors for ever :

And furthermore We will [and charge all our] Officers Mayors Sheriffs Justices Bailiffs Customers Comptrollers Searchers [and other our subjects to be helping favouring and assisting the Governor &c. and the Company's servants &c.] as well upon the land as upon the sea from time to time whensoever they or any of them shall be thereunto required :

And further for Us our heirs and successors *of our especial grace certain knowledge and mere motion* We will and grant that these our Letters Patents shall forever stand and be good sufficient and available in the law according to the tenor and true meaning of the same, the Statute made in the third year of our Reign of England intituled an Act to enable all His Majesty's loving subjects of England and Wales to trade freely with the Dominions of Spain Portugal and France <sup>1</sup> or any

<sup>1</sup> 3 Jac. I. c. 6. 'Whereas divers merchants have of late obtained from the King's most excellent Majesty under the Great Seal of England a large Charter of Incorporation for them and their Company to trade into the Dominions of Spain and Portugal, and are also most earnest suitors to obtain the like from his said Majesty for France, whereby none but themselves and such as they shall think fit as being mere merchants shall take benefit of the

said charter. . . Be it enacted . . . that His Majesty's subjects . . . have free liberty to trade into and from the Dominions of Spain Portugal and France in such sort and in as free manner as was at any time accustomed sithence the beginning of this His Majesty's most happy reign and at any time before the said Charter of Incorporation was granted, paying to the King . . . all such customs and other duties . . ., the said Charter . . . or any

other Statute Act of Parliament law proclamation restraint or other matter or thing whatsoever to the contrary notwithstanding :

*Provided always* and our will and pleasure is that this present grant or any thing therein contained shall not extend to frustrate revoke or make void a former grant made to the Governor and Company of Merchants of Exeter<sup>1</sup> or anything therein contained, so as the said Governor and Company of Merchants of Exeter be contributory from time to time to any necessary charge which shall be reasonably assessed by our Privy Council or by the Privy Council of our heirs and successors for the time being towards the general support of the said trade and commerce into France :

*Provided also* and our will pleasure and meaning is that this our grant shall not extend to restrain any fishermen, but that they and every of them may have liberty to transport and carry their fish into France and the Dominions thereof and to return their monies in any kind of merchandise and to bring over the same into this our Realm of England and other our Dominions although they be not free of the Society of Governor and Company of Merchants of London trading into France and the Dominions thereof :

*Provided also* and We do hereby declare our will pleasure and intent that this our present grant shall not prejudice such right title or interest as the Company of Vintners<sup>2</sup> of our City of London may justly claim or challenge by law for which they are not hereby restrained or concluded, but that they may maintain defend or recover such their right in any Court of Justice, this grant or any clause therein contained to the contrary thereof in any wise notwithstanding :

*Provided further* and We do by these presents declare our will pleasure and intent to be that if this our grant of corporation shall at any time hereafter upon the practice thereof be found inconvenient to the State, that then upon signification of our will and pleasure by six of our Privy Council, whereof our Treasurer of England for the time being

other charter grant act or any thing else heretofore made or done or hereafter to be done to the contrary in any wise notwithstanding.' For the Spanish merchants' charter see *ante*, p. xxv.

<sup>1</sup> *Patent Rolls*, 2 Eliz. pt. xiii: the grant is printed by Cotton, *An Elizabethan Guild of the City of Exeter* (1873: Exeter), pp. 1-10. See also the statute 4 Jac. I. c. 9, which provides that, whereas Elizabeth incorporates the Exeter merchants trading to France and the incorporation

has been found useful generally and because it relieves twelve poor men annually with gowns, money &c., and whereas the statute of 3 Jac. I. c. 6 (see previous footnote) might be urged as annihilating the Exeter charter, the general words of the latter statute are not to dissolve or impeach the Exeter charter.

<sup>2</sup> A Latin charter was granted to the Vintners on February 2nd of this year (*Patent Rolls*, 9 Jac. I., pt. xxxiv.).



to be one, for the revoking or determining of these our Letters Patent the same shall be void and of none effect, Any thing before in these presents contained to the contrary thereof in any wise notwithstanding :

Although express mention &c.

In witness whereof &c., witness our self at Westminster the xiith day of July,

*per breue de priuato sigillo.*

## KING'S MERCHANTS OF THE NEW TRADE<sup>1</sup>

(Patent Rolls, 13 Jac. I. pt. ii.)

JAMES *by the Grace of God King of England France and Ireland, Defender of the Faith, &c.*, To all to whom these presents shall come, Greeting :

We have often and in divers manners expressed ourselves as well by several proclamations as in our own person before our Council and also by several Letters Patents of licence which formerly passed our Great Seal, what an earnest desire and constant resolution We have that, as the reducing of wools into clothing was the act of our noble Progenitor King EDWARD THE THIRD, so the reducing of the trade of white cloths which is but an imperfect thing towards the wealth and good of this our Kingdom unto the trade of cloths dyed and dressed might be the work of our time,<sup>2</sup>

To which purpose We did first invite the ancient Company of Merchant Adventurers to undertake the same, who upon allegation or pretence of impossibility refused,

Whereupon nevertheless not discouraged but determined to maintain our princely resolution against impediments and difficulties in a work so excellent, We did find means to draw and procure divers persons of good quality within our City of London and elsewhere with great alacrity and commendable zeal to give a beginning to this our purpose,

In respect whereof, for that above all things We were to take a princely care that between the cessation of the old trade and the inception and settling of the new there should not be any stand of cloth nor failing or deadness in the vent thereof, whereby this work which is so good for the future might prove dangerous in the entrance thereof, We were enforced to grant several licences under our Great Seal unto the

<sup>1</sup> See Introduction, *ante*, pp. lxxvii-lxxviii.

proclamations dated 23rd July and 2nd Dec., 12 Jac. I.

<sup>2</sup> This desire is similarly expressed in

said persons for a trade of whites to be temporary and in the interim until this work by due and seasonable degrees without inconvenience of precipitation might be happily accomplished, giving them likewise some powers of assembling keeping of Courts and the like, but yet without any actual incorporation of them,<sup>1</sup>

But notwithstanding, having evermore in contemplation our first end, We have still provoked and urged on the said persons unto whom the trade is now transferred to some certainty of offer and undertaking concerning a proportion of cloths dressed and dyed to be annually exported, and the same proportion to increase and multiply in such sort as may be a fruitful beginning of so good a work and also an assured pledge of the continuation thereof in due time,

Whereupon the said persons or new Company have before the Lords of our Privy Council absolutely condescended and agreed at a Court holden the seventeenth day of June one thousand six hundred and fifteen, that thirty six thousand cloths shall be dressed and dyed out of such cloths white as were formerly used to be shipped out by the old Company undressed and undyed, the said thirty six thousand cloths to be exported by the said Company as followeth, that is to say:—

From the four and twentieth of June one thousand six hundred and fifteen to the four and twentieth of June one thousand six hundred and sixteen, six thousand cloths :

From the four and twentieth of June one thousand six hundred and sixteen to the four and twentieth of June one thousand six hundred and seventeen, twelve thousand cloths :

And from the four and twentieth of June one thousand six hundred and seventeen to the four and twentieth of June one thousand six hundred and eighteen, eighteen thousand cloths :

And did further promise and profess with all cheerfulness to proceed as it shall please God to give ability and the trade encouragement to the settling of the whole trade of cloths dressed and dyed which is the end desired,

*Wherefore We*, in our princely judgment foreseeing that as long as the said new Company shall remain not incorporated it doth much weaken both the endeavour and expectation which belongeth to this work as if it were a thing but only in deliberation and agitation and not fully and thoroughly established, have thought it now a fit time to extend our princely grace unto them for their incorporation, and to indue and invest them with such liberties and privileges as the old Company formerly had, with such additions and augmentations as the merit of concurrence to so good an end may require, with this nevertheless that

<sup>1</sup> Cf., for example, *Patent Rolls*, 1 Jac. I. pt. x. See *ante*, p. xv(1).



because the nature of the present liberties and privileges must of necessity differ from those which shall be fit and requisite when the whole trade shall be overcome and settled, there be therefore a power in Us to revoke or alter the same,

*Know ye therefore that We, for the considerations aforesaid and for divers other good causes and considerations Us thereunto especially moving, of our especial grace certain knowledge and mere motion have willed ordained constituted granted and declared, and by these presents for Us our heirs and successors will ordain constitute grant and declare, And further by these presents have given granted and confirmed, and for Us our heirs and successors do give grant and confirm, unto our right trusty and right wellbeloved Cousin and Counsellor Thomas Earl of Suffolk, Lord High Treasurer of England, and to our trusty and wellbeloved Sir Thomas Vavasor, Knight, Marshal of our House, Sir Stephen Soame, Knight, William Cokayne and Martin Lomley, Aldermen of London, Richard Humble, William Payne, John Gore, William Cater, Thomas Symonds, Thomas Boothbie, Christopher Clitheroe, Richard Beane, Alexander Baker, William Greenwell, William Harrison, Gerrard Read, Daniel Gorsuch, John Englishe, John Heather senr.,<sup>1</sup> Frauncis Blissard, Roberte Atkyns, John Rivetts, Thomas Chapman, John Chapman, Adrian Evans, Frauncis Cokayne, William Cokayne junr., John Johnson, John Hall, Thomas Hall, William Heather, William Palmer, Thomas Dalby, Roger Heming, Thomas Moore, Richard Ball, William Craddock, John Raney, Richard Husband, Frauncis Constable, John Hopkins, Thomas Trotter, John Bowater, Thomas Styles, John Burnell, Thomas Burnell, Duncomb Haulsey, Edward Weston, John Haulsey, Richarde Otwaie, James Medlycot, Gilbert Warde, John Warde, William Ward, Daniell Hills, Edmond Scott, Roberte Palmer, John Wynne, John Newman, Giles Poulton, Randall Crewe, Christopher Vincent, Symon Smyth, John Travell, Roberte Gerrard, John Hobson, Lawrence Reade, Richard Mantell, Clement Reade, Frauncis Wadlow, Thomas Richardson, James Francklyn, Edmond Bracken, William Culpeper, Thomas Hawkes, Mathewe Cradocke, Anthonie Wither, John Goldwell, Christopher Grimes, William Latham, John Trott, Richarde Lamb, John Stampe, Edward Bretton, William Peirson, John Harrison, William Fynche, William Baker, John Morris, Edmond Manninge, Thomas Bedham, Thomas Stones, Andrewe Stones, Theophilus Bruerton, Isaac Sutton, Henrie Brook, Mathewe Beadle, Isabrande Morris, Henrie Blandy, Thomas Wetherall, John Dade, John Fowler, Richard Ellis, John Fletcher, Richard Poyntell, John Bankes, Richard Pope, George Stephenson, George Witham, Thomas Keightley, John Jones, Mansfield Tucker,*

<sup>1</sup> Patent Roll has 'John Heathersever.'

*John Keymes, John Heather junr., Edward Higham, John Benley, John Coxe, James Coxe, Edmond Lever, John Rose, Gabriell Tomlinson, Anthony Hibbins alias Weaver, Thomas Tomlinson, John Carpenter, William Skelton, John Bewley, Humfrey Fletewood, William Acton, Thomas Rogers, Theophilus Heaton, Henrie Darrell, Robert Greenewell, Anthony Bridges, Thomas Morley, Thomas Whitley, George Benson, Roberte Angell, Edward Williams, Humfrey Berrington, John Blancher, Valentine Markham, John Milwarde. Richard Davies, George Longe, Roberte Croste, George Croste, Clement Underhill, George Morgan, Arthur Mouse, John Houlden, William Coxe, Thomas Dangerfelde, Frauncis Longston, Richarde Prince, Richard Miller, John Kendricke, John Carpenter draper, John Wiseman, Roberte Pinchen, Thomas Bownest, Daniell Saunders, William Christmas, Edward Bowater, Jeremy Sprott, John Thorpe, Anthony Biddulphe, Richard Boothbie, William Grene, John Fearne, William Wall, William Elwicke, John Farrer, Nicholas Buckenridge, Anthony Stubbs, Stephen Burton, Hugh Wyndham, Isaac Jones, Thomas Sheppard, Edward Terringham, Henry Whitakers, Hugh Perry, Richard Bennet, Frauncis Benbowe, Henrie Moseley, Thomas Hampson, Richard Grenowes, William Johnson, Edward Jurden, Thomas Vickers, George Brewen, Nicholas Busse, William Baldwin, John Doggett, Edmond Myers, Gershon Maninge, Stephen Soame junr., Thomas Some, John Some, Henry Croston, Thomas North, Rowland Beresford, Roberte Phippes, Richard Dancy, George Dancye, Richard Ley, Timothie Stephens, Edward Morganne, Stephen Bailye, Edward Grace, Nicholas Gerrard, Roger Dickenson, John Wheler, Frauncis Standishe and Thomas Russell, William Bradford, John Holland, William Cranmer, Thomas Colthurst, Walter Baker, Thomas Evans, Frauncis Needeham and Frauncis Haddon, and to every of them and to all and every such person and persons whatsoever our loving subjects as shall, between this and the Feast of St. Michael the Archangel next ensuing, come in subscribe and be admitted of their Society, That they and every of them their and every of their sons and apprentices according to the constitutions and ordinances hereafter by the Company to be made and presented, shall be one Fellowship and Commonalty and one body corporate and politic in deed and in name by the name of **Governor Assistants and Fellowship of the King's Merchants Adventurers of the New Trade of London:***

And one body corporate [&c. We hereby declare them]:<sup>1</sup>

And that by the same name they shall have perpetual succession and shall be at all times hereafter one Fellowship and body corporate and politic and capable in law :

<sup>1</sup> *As ante*, p. 32.



And that they [etc. may have power to purchase enjoy &c. manors messuages lands &c.] not exceeding the yearly value of one hundred pounds per annum not held *in capite* nor by knight's service, And also to give grant alien let [etc. the same, and do and execute all other acts concerning the same, &c., the Statute of Mortmain or any other statute &c. or thing whatsoever to the contrary notwithstanding; and that they may sue and be sued etc. in all Courts &c. and in all matters &c.] as any other our liege people of this our Realm of England or other our Dominions being persons able and capable in law may or can [etc.] :

[Power to have common seal &c.] :

[There shall be one Governor; *William Cokayne*, Alderman of our City of London, to be the first and present Governor, to continue till June 24th next] and from thence until the said *William Cokayne* or some other of the said Fellowship or Company shall in due manner be chosen and sworn to the said office according to the ordinances and provisions hereafter in these presents expressed and declared, if he the said *William Cokayne* shall so long live :

[And further] there shall be from henceforth for ever hereafter one or more not exceeding the number of six of the said Company or Fellowship to be elected and chosen which shall be called the Deputy or Deputies of the said Company or Fellowship :

And for the better execution of our will and pleasure [etc.] We nominate *William Grenewell* to be one of the Deputies [to continue for similar term; one other to be elected Treasurer; *Christopher Clitheroe* nominated Treasurer in similar manner] :

[So also twenty-four] discreet persons of the said Fellowship or Company resident and remaining within our City of London or the liberties thereof, [to be the Assistants, to aid and assist the Governor and Deputies &c.; and We nominate as Assistants] *John Gore, William Cater, Thomas Symonds, Thomas Boothbye, William Harrison, John Englishe, Thomas Morley, Gerrard Reade, Robert Palmer, Thomas Dalbye, Daniell Hills, Roger Heming, Richard Ball, John Burnell, Roberte Angell, John Wheeler, John Kenderick, John Chapman, Theophilus Brewerton, John Jones, Adrian Evans, George Benson, Hugh Perry and Frauncis Blissard* to continue in the said office and place of Assistants until such time as by the said Fellowship or Company or the more part of them they shall be amoved put out and displaced according to the ordinances [&c.] :

[Power (with a quorum of thirteen)] quietly and freely in places convenient within our City of London to assemble themselves together, being thereunto warned or summoned by the said Governor or Deputy or his or their officer or officers in that behalf to be appointed And

there to set down ordain constitute and make [statutes laws &c.] as well for the better government of the said Fellowship or Company here in England and of all persons which shall be free of the same Fellowship as of such members of the said Fellowship or Company [etc.] which for their better aid and assistance and according to our pleasure herein-after expressed shall be from time to time chosen and resident beyond the seas for the ordering of the affairs of the said Fellowship or Company there, and likewise for the explaining and directing how every man of the said Company or Fellowship both in England and beyond the seas shall bear use and carry himself in any affairs touching or concerning the said Fellowship or Company :

[Power to impose punishment by imprisonment or fine, levy fines etc. ; such laws to be kept &c. if reasonable and not repugnant &c.] :

[*William Cokayne*] shall not intermeddle with the execution of the said office of Governor before he hath taken his corporal oath before the Deputy and Assistants [or thirteen at least] for the true and faithful executing thereof in all matters and things whatsoever concerning the same, [power to them to administer the oath accordingly to him and to all succeeding Governors ; similar oath to be taken by all other officers, administered by the Governor] :

[Power at a General Court, to be held] between the Feasts of the Birth of our Lord God and the Purification of the Blessed Virgin Mary, to assemble themselves [etc., to elect &c.] out of the generality of the said Corporation or Fellowship [officers, as above, for the following year] :

[Likewise We grant &c.] that if it shall happen at any time or times hereafter the Governor of the said Company or Fellowship for the time being to die or depart from his high place or office before he come to the execution thereof or to be amoved within one year next after he shall be admitted into the execution of the same, which Governor for the time being our will and pleasure is shall be at any time removed or displaced for misgovernment or other good or lawful cause at the discretion of the Deputy or Deputies Treasurer and Assistants and the rest of the said Company or Fellowship for the time being or the more part of them at a General Court being met and assembled, whereof the Deputy or Treasurer to be one, that then [he may be replaced ; so also the Deputy and Treasurer ; similar provision] if it shall happen any of the said four and twenty Assistants of the said Fellowship or Company for the time being to die or that they or any of them may not for sickness age or otherwise or will not out of wilfulness give their attendance in the same room office or place of Assistants [&c.] :

[Power to choose Secretaries for England or overseas, to write and



keep records of all statutes acts &c.] and other things whatsoever which shall any ways concern the said Company or Fellowship and which by the said Fellowship or Company be or they shall be at any time commanded and directed to write register and record ; [power to choose other inferior officers, to continue during the Company's pleasure : all these officers to take corporal oath before undertaking office] :

[Power to] admit receive and take into the said Company or Fellowship and make free of the same all and every such person and persons as they by their discretion shall think meet and convenient,\* taking of them for their admittance the sum of fifty pounds, The statute of the twelfth year of King HENRY THE SEVENTH made to the contrary notwithstanding :<sup>1</sup>

And that every person and persons already admitted or hereafter to be admitted taken in received or to be received or taken into the same Company or Fellowship and made free of the same as is aforesaid or to be made free, shall be one of the said Company or Fellowship and a lawful member or part of the same body corporate and free of the same in such manner as is aforesaid until such time as by the said Governor or his Deputy and Assistants of the said Company or Fellowship for the time being, and of twenty of the said Assistants in the least, they for their offences and demerits shall be amoved put out displaced and disfranchised of and from the same : \*

And furthermore We for Us our heirs and successors do by these presents grant and confirm to the said [Fellowship] and their successors that it shall and may be lawful to and for them and every of them and their successors for ever hereafter to trade traffic and occupy and use the trade and feat of merchandise unto from and with the Town of Callice in the Realm of France and the marches thereof, And into from and with all and every the Countries of Holland Zeland Brabant Flaunders West Frizeland and all other the Countries nigh thereunto adjoining heretofore under the obeisance and the Dukes of Burgundie, or into East Frizeland and Hamborough and the Territories of the same and into from and with the Countries of Germanie and all the Territories Provinces Cities and Towns thereof with all manner of woollen cloths kersies wares commodities and merchandises whatsoever not prohibited, without

\* Clauses thus starred copy Elizabeth's charter of 1564 to the Merchant Adventurers of London (*ante*, p. xiii. (8)).

<sup>1</sup> The entrance fee and statute are not mentioned in the charter of 1564. The Act 12 Henry VII. c. 6, reciting the abuse of the system of imposing fines on persons dealing at foreign marts, allowed English-

men to resort to 'Flaunders Holand Seland Brabant' &c. with their goods, there to buy and sell without any exaction from Englishmen 'except only ten marks sterling.' That sum is specified as the 'hawnce' in Henry VII.'s charter to the Merchant Adventurers at Calais (*Patent Rolls*, 21 H. VII. pt. i. ; 28th September).

any let contradiction or interruption of Us our heirs or successors or of any other person or persons whatsoever :

And our will and pleasure is,<sup>1</sup> and We do hereby for Us our heirs and successors grant and confirm unto the said [Fellowship &c.], that the said Governor or Deputy and the said Assistants or the more part of them for the time being, being at least thirteen, shall from henceforth for ever have use and exercise full jurisdiction power and authority lawfully to rule and govern the same Company or Fellowship and their successors and all and every merchants and members of the same in all their private causes suits quarrels misdemeanours offences and complaints among them touching the said trade as well here in England as beyond the seas in Callice and the marches thereof, and also in the Countries and Towns of Holland [etc. Germany etc. as above] rising moved and to be moved, And to reform decide and pacify all manner of questions discords and variances between themselves and between them or any of them and other merchants here or in the said countries cities towns territories and places before mentioned moved and to be moved, and all manner of trespasses hurts misprisions excesses violences and injuries to merchant strangers here in England or in the said foreign countries or in any of them done by the said merchants of the said Company or Fellowship or by any of them touching and concerning their said trade to repair restore and amend and like restitution reparation and amendments of other merchant strangers or of their deputies to require ask and receive :

And further We for Us our heirs and successors do by these presents grant to the said [Fellowship &c.] that it shall and may be lawful to and for the Governor of the said Company or Fellowship for the time being and to and for the Deputy of the said Governor for the time being or either of them at all time and times hereafter and from time to time for ever to call assign appoint and assemble Courts Councils and Congregations as well of the Assistants where the case shall require as of all the said Company or Fellowship or any portion of them in place convenient as well within our City of London and elsewhere within this Realm as also in Callice and the marches thereof and in the said countries and towns of Holland [etc. Germany etc. as above,] as often and whensoever as to the said Governor and Deputy for the time being or one of them it shall seem and be thought expedient for the weal of the said Company or Fellowship : \*

<sup>1</sup> Here the Elizabethan charter of 1564 begins to be continuously followed. The variations are slight. Calais is not referred to in the grant of 1564, but is mentioned

as above in that of Henry VII.

\* Clauses thus starred copy Elizabeth's charter of 1564 to the Merchant Adventurers of London (*ante* p. xiii. (8)).



And moreover We for Us our heirs and successors do by these presents give power and authority to the said [Fellowship &c.] that it shall and may be lawful for the said Governor or his Deputy and to the said four and twenty Assistants or the more part of them being thirteen at least for the time being, all manner of persons being of the said Company or Fellowship which shall be admonished or warned at any time or times by their officer or officers to come and appear at any Assembly Court or Congregation from thenceforth to be appointed by the said Governor or Deputy or either of them for the time being, and which shall not come and appear at the hour and place to them or any of them by the said officer or officers to be appointed or assigned, for his or their non-appearance and disobedience in that behalf (not having a reasonable cause or lawful excuse<sup>1</sup>) or for any other offence done or to be done against the common weal of the said Company or Fellowship or against any of the privileges to them by these presents granted, to amerce mulct fine or them to commit to the gaol or prison as the case shall require and according to the greatness and quality of their offence, there to remain without bail or mainprise as to the said Governor or his Deputy for the time being together with the said four and twenty Assistants, or thirteen of them at the least, shall ordain and award : \*

[And We further grant] that if any person or persons which now is or at any time hereafter shall be free of the said Company or Fellowship shall at any time or times hereafter marry and take to wife any woman born out of this Realm of England or other our Dominions, or shall at any time or times hereafter purchase obtain get or have to himself or to any person or persons to his use or upon any confidence or trust any lands tenements or hereditaments in any of the foresaid parts or places beyond the Seas out of our Dominions, that then and from thenceforth immediately after such marriage or purchase so to be had or made, the same person or persons which shall so marry or purchase as is aforesaid shall be *ipso facto* disfranchised of and from the said Company or Fellowship and shall not be at any time after reputed received accepted or used by the said [Fellowship etc.] or by any other person or persons as one of the said Company or free of the same, but shall from henceforth in all and every place and places be utterly excluded of and from all liberties traffics trades of merchandise pre-eminences jurisdictions and voices belonging to the said Company or Fellowship or to any

<sup>1</sup> The bracketed words do not appear in the original of this clause (*Patent Rolls*, 21 H. VII. pt. i. ; 24th January), nor in the Elizabethan charter. Henry recites, *ibid.*, the decay of the merchants 'for lack and default of politic rule and guiding

amongst themselves, and namely by disobedience in not coming to their assemblies and congregations limited and appointed.'

\* Clauses thus starred copy Elizabeth's charter of 1564 to the Merchant Adventurers of London (*ante*, p. xiii. (8)).

person being free of the same, Anything in these presents contained to the contrary in any wise notwithstanding : <sup>1</sup> \*

And moreover We, minding that a discreet honest and decent government may be for ever hereafter used among the said [Fellowship &c.] their trading trafficking and other their business whatsoever, as well here in England as in the said Town of Callice [etc., Holland, Germany etc., as above,] in as great or greater estimation as in times past, and *of our more abundant grace certain knowledge and mere motion*, for Us our heirs and successors We do by these presents grant unto the said [Fellowship &c.] that the said Governor Deputy and Assistants or thirteen of them at the least and their successors for the time being from time to time and at all times from henceforth shall and may enact establish allow and confirm and also revoke disannul and repeal all and every act and acts laws and ordinances heretofore had or made by the said [Fellowship etc.], or by what name or names or additions soever, and also shall and may from henceforth from time to time and at all times hereafter for ever enact make ordain and establish acts laws constitutions and ordinances [for the good government of the Fellowship] and of every merchant and peculiar member of the same Fellowship or body corporate [and also of all our subjects] intermeddling exercising or using the feat or trade of the said [Fellowship] by any means, as well here in England as in the said countries towns and places beyond the seas, so that the said acts laws [&c.] be not hurtful to any the rights of our Crown honour dignity royal or prerogative or to the diminution of the common weal of this our Realm or contrary to any our laws and statutes, [and also may revoke etc., put in execution &c., here and overseas, the same acts laws &c.], And shall and may also at all times hereafter for ever so often as occasion shall serve within the said foreign countries and towns and every of them freely and lawfully put in due execution as well upon against and amongst all and every person and persons being or that hereafter shall be a member or members of the said Company Fellowship or body corporate as also against all and every person and persons intermeddling with exercising or using, or that hereafter shall intermeddle with exercise or use, the feat or trade of the said [Fellowship] by any ways or means in the said foreign countries and towns and in any of them, all and singular such act and acts orders rules laws and ordinances whatsoever as have been heretofore had made or

<sup>1</sup> Elizabeth further provided here that any offender against this clause should not, while he and his foreign wife resided out of the Realm, or while he held lands overseas, 'assemble amongst the Fellowship or be present at any consultation conference

or council' thereof. But exceptions were made; see two cases in *Patent Rolls*, 25 Eliz. pt. ii.

\* Clauses thus starred copy Elizabeth's charter of 1564 to the Merchant Adventurers of London (*ante*, p. xiii. (8) ).



used or hereafter shall be had made or used as aforesaid by the said [Fellowship] by force or colour of any privileges powers liberties grants pre-eminences or authorities to them by any Prince or Princes State or States Lord or Lords Governor or Governors of the said foreign countries and towns or of any of them or of any part thereof hereafter to be granted made or established, and shall and may also compel such as be not of the said Company or Fellowship and occupying exercising or using the trade of the [Fellowship] in any of the said countries or places beyond seas to obey and perform all and every the same acts orders rules laws and ordinances by all or any of the ways or means aforesaid made or to be made and every of them : \*

And that the said [Fellowship, or thirteen as aforesaid,] shall and may take order with every the subject or subjects of Us our heirs and successors not being of the said Company and trading or haunting the said countries or places beyond the seas or any of them for merchandise, and to compel every of them by fines forfeitures penalties imprisonments or otherwise to obey hold and perform all such orders acts and ordinances that hereafter shall be ordained made allowed or confirmed by the said [Fellowship or majority as above] for the good government rule order and condition of the said subject or subjects, so as the state of the said Company be not by them impeached or hindered but by all means and ways maintained and continued, And that all such forfeitures fines [etc.] so as aforesaid to be levied and taken shall be for evermore to the use and behoof of the said [Fellowship &c.] : \*

And furthermore We of *our mere abundant grace* for Us our heirs and successors do will and straitly charge and command as well all and every person and persons being or that hereafter shall be a member or members of the said Company and Fellowship and all and every other person and persons intermeddling with exercising or using, or that hereafter shall intermeddle with exercise or use, the feat or trade of the said [Fellowship &c.] by any ways or means in the said Countries and towns of Callice, Holland [etc. as above], that they and every of them submit themselves and in all things be obedient to the said [Fellowship &c.] and to all and every the orders rules laws [etc.] without declining from renouncing or disobeying the power or authority of them or any of them and without any further appeal or provocation whatever : \*

As also that all Mayors Sheriffs Bailiffs Constables and other officers and ministers of this our Realm [etc. support and assist the said Governor Deputy and Assistants etc. their ministers and officers in the due execution of the said laws acts &c. and in punishing the offenders and transgressors of the same by the pains and penalties therein appointed] : \*

\* As in Elizabeth's charter of 1564.

And if the said Governor or Deputy or his or their successors for the time being with the consent of the said Asssistants [or majority out of thirteen as above] shall commit or send any of the said Company or Fellowship, or any other subject of Us our heirs or successors being out of the said Company or Fellowship, to any ward gaol or prison for breaking or doing against any of the said acts [etc.], Then our pleasure will and strait commandment is, and for Us our heirs and successors We do also grant and confirm unto the said [Fellowship &c.], that so oftentimes and from time to time the warden gaoler or keeper wardens gaolers or keepers of the same wards gaols and prisons shall receive into his or their prisons all and every such person and persons so offending as shall be so sent or committed to him or them, and there shall safely keep the person and persons so committed at the proper cost and charges of the said person or persons so committed, without bail or mainprise until such time as such offender or offenders shall be discharged of the said imprisonment by the said [Fellowship or majority as aforesaid] : \*

And that We our heirs or successors will not in any wise discharge or release out of any ward or prison upon direct bail or mainprise or otherwise any such offender or offenders without the consent of the said [Fellowship or majority as aforesaid &c.] until such time as they and every of them so imprisoned shall have both obeyed and fulfilled all things according to the said acts statutes and ordinances made or to be made as is aforesaid, and also shall have paid all and every such fine and fines penalties forfeitures and amerciaments which they shall be adjudged to pay by the said [Fellowship &c.] for any such their trespass contempt abuse or offence committed or to be committed as aforesaid against any the acts statutes [&c. concerning the said trade etc.], The said fine or fines [etc.] to be demanded levied and received to the uses of the said [Fellowship etc.] for ever : \*

And we do further [grant to the Fellowship or twenty of them, power] to amove displace put out and disfranchise out of the said Company all and every such person and persons as shall commit or perpetrate any great trespass and abuse offence or contempt against any the said acts laws [etc.] : \*

[And further] full power and lawful authority from time to time and at all and every time and times hereafter for ever to assign constitute make and ordain one officer or divers officers as well within our City of London and in all other places within this Realm and other our Dominions as also in the said countries or places beyond the seas or in any of them, to take receive levy and gather all manner of fines [etc. of persons who are or are not members, offending or breaking any laws &c. ;

\* As in Elizabeth's charter of 1564.



full power to such officers to arrest, if need be, the body or goods of such offenders here or overseas] where the same can be found, and the same to retain and keep irreplevisable<sup>1</sup> until they shall have satisfied for their offence or misdemeanour or otherwise agreed for the same with the said [Fellowship or majority &c.]: \*

[Similar power to choose in countries abroad aforesaid] weighers porters measurers ployers<sup>2</sup> packers and any other officers for the government of the Corporation at their liberties and pleasures to serve only for their merchandise without any let or impediment of any our officers or of any other person or persons whatsoever: \* †

Furthermore of our more ample and abundant grace certain knowledge and mere motion We have given granted and confirmed, And by these presents for Us our heirs and successors do give grant and confirm, unto the said [Fellowship] that they and their successors and every of the said Company for the time being shall and may from henceforth for ever have hold occupy use and enjoy exercise perceive and take, to and by them and their successors and to and by every of them for ever, as well [here in England as elsewhere in foreign towns and countries as above,] all and singular such like and the same grants privileges franchises immunities pre-eminences powers authorities jurisdictions customs usages benefits and other things whatsoever comprised specified declared or granted or mentioned to be granted in any Letters Patents heretofore made by any our Progenitors or Predecessors Kings or Queens of this Realm or by any other Foreign Prince Potentate or Foreign Princes or Potentates of the said Countries and towns [etc. as above] which the late Company<sup>3</sup> of the Merchant Adventurers of England trading into the said countries or towns of Callice Holland Zealand Braband Flaunders and other places before mentioned or any of them have had used or enjoyed or which they or any of them have had used or enjoyed by reason of any custom usage or prescription: \*

And for that divers persons our subjects not being brought up in merchandise or use of traffic but altogether ignorant and inexpert as well in the orders and rules of merchandise as in the laws and customs of the said countries provinces cities and towns before rehearsed, through their ignorance and lack of knowledge do commit many errors and inconveniences which in the end will tend to the overthrow of the said Company and trade and to the great hurt of our Realm of England and other our Dominions and the common weal of the same, We, willing

<sup>1</sup> Not to be set at large upon sureties.

\* As in Elizabeth's charter of 1564.

<sup>2</sup> Folders: cf. *N.E.D.*, "ploy," sb. 1.

† As in Henry VII.'s charter.

<sup>3</sup> Dissolved in 1614. See *S.P.D.*

Jac. I., 1614, lxxviii. 66. A proclamation of 2nd Dec. 12 Jac. I. extinguished the charter: another of 12th Aug. 15 Jac. I. restored it: see Introduction, *ante*, p. lxxviii.

to resist and prevent such inconveniences and intending to further the expert and exercised merchants in their lawful and honest trade and to maintain government according to this our present Charter, will and by our Royal authority do command and by these presents forbid and prohibit all and every our subjects and the subjects of Us our heirs and successors not being free of the foresaid Company or Fellowship that they or any of them shall not at any time or times hereafter by any ways or means directly or indirectly contrary to the true intent and meaning of these presents buy sell transport or use any trade or traffic into or from the said countries provinces cities towns and territories before rehearsed or into or with them or any of them, upon pain not only to incur our indignation but also to pay such reasonable pains forfeitures fines and amerciements as also to suffer such reasonable imprisonments as shall be due or convenient to be assessed taxed laid or imposed on the transgressors in that behalf according and agreeable unto the statutes ordinances and constitutions of the Company or Fellowship aforesaid in that behalf to be set down and ordained and as to the said [Fellowship, or majority as above,] shall seem meet and convenient, Any law statute custom ordinance or other thing whatsoever to the contrary notwithstanding :

And further [We grant to the said Fellowship] that if any the subjects of Us our heirs and successors, not being of the said [Company], shall attempt to use merchandise in the said places and countries as aforesaid or any of them contrary to the form and tenor of these presents, That then the said [Fellowship or majority as above] shall and may from time to time punish and correct every such offender and offenders at their will and pleasure according and agreeable unto their said statutes and ordinances, and thereby lawfully constrain and compel them and every of them so offending that they shall desist their attempt in that behalf and that all and singular such forfeitures [fines &c. so to be assessed &c. by the Fellowship &c.] shall be to the use and behoof of the said [Company] for ever :

And also We will and for Us our heirs and successors by these presents do grant to the said [Fellowship] that the said [Fellowship or a majority, thirteen at least, as above,] shall have full and whole power and authority to impose and lay and also to take and levy all reasonable impositions and sums of money whatsoever as well upon all persons trading into the said countries as also upon the merchandise to be transported and carried into the countries towns provinces and territories before rehearsed or any of them either by water or land or to be brought by any of our subjects from thence as to them shall seem necessary and convenient for the supportation maintenance and good government of the



said Company or Fellowship and to be employed for the benefit and commodity of the same Company and not otherwise :

And, for the better encouragement of the said Company or Fellowship and to the end they may without interruption have receive and take the full benefit of the liberties powers and privileges to them hereby granted according to our gracious meaning in that behalf, We do hereby for Us our heirs and successors straitly charge and command all and singular the customers comptrollers searchers surveyors waiters<sup>1</sup> and all others the officers and ministers of Us our heirs and successors for the time being in all every or any of our ports havens creeks and the members of the same within our Realms and Dominions of England Wales and Ireland and the Town of Barwick, that they and every of them, upon pain of loss of their or any of their place and places office and offices and such further punishment as we our heirs or successors or the Privy Council of Us our heirs or successors shall think fit to inflict upon them or any of them for breach and contempt of our Royal commandment in this behalf, shall not at any time or times hereafter wilfully permit or suffer any of the subjects of Us our heirs or successors or any aliens denizens or strangers to freight lade or ship out in any ship crayer<sup>2</sup> lighter or other vessel whatsoever any goods wares or merchandises whatsoever (being native commodities of this Realm) for any of the said territories countries and towns before mentioned wherein the said [Fellowship etc.] according to the intent of these presents are to trade and traffic, but such goods wares and merchandises only whose entries shall be subscribed and allowed by the Governor or Deputy of the said Company for the time being by bill or writing subscribed with his or their hand or hands or such other person or persons as by the said Governor or Company shall be thereunto named and appointed, and in such ship or ships or other vessel or vessels only as shall be named in such bills or writings and not any other ship or vessel by certificate without the hand and allowance of the said Governor or Deputy or such other as shall be thereunto named and appointed as aforesaid :

And to the end that the said [Fellowship &c.] may the better undergo and bring to good effect the said work of exporting and venting the said cloths dyed and dressed here in England, We do by these presents for Us our heirs and successors give grant and confirm unto them and their successors that it shall and may be lawful to and for the said [Fellowship &c.] for the time being or any others being free of the said

<sup>1</sup> "Waytors" in Patent Roll. Compare "Coast-waiter," "a custom-house officer who superintends the landing and

shipping of goods coastwise," *N.E.D.*, s.v. "Coast," sb. 14. Cf. 'Tide-waiter.'

<sup>2</sup> See *ante*, p. 23 (2).

Company or Fellowship and by the said Governor and Company thereunto appointed in any place or places beyond the seas where they shall be resident or abiding, to parley confer and agree with the States of the United Provinces or any particular town within the United Provinces and likewise with any Prince State city or town in Germany or other the territories abovementioned concerning a place or several places for a mart town or towns place or places of residence<sup>1</sup> for the said Company, not concluding nevertheless absolutely until they have acquainted the Lords of the Privy Council with the same :

And further to the end and intent that the indirect practices conveyances and abuses of interloping and the like from time to time to be offered and made by wilful and disobedient persons in doing and effecting of everything contrary to such laws and ordinances as by the said [Fellowship &c.] shall be from time to time made and established or tending to the damage or hurt of the said Company or Fellowship or any member of the same or to the breaking or infringing of any the persons or liberties hereby granted may be the better met withal and prevented, We do by these presents for Us our heirs and successors give grant and confirm unto the said [Fellowship &c.] that the Governor or Deputy of the said Company for the time being either here in England or in any other the place or places before mentioned beyond the seas shall have full and absolute power and authority to administer an oath unto any person or persons being of the freedom of the said Company or Fellowship to answer truly to such things as shall be demanded of them and thereupon to examine them upon interrogatories or otherwise as to the said Governor or Deputy for the time being shall be thought most meet for and concerning the finding out discovering and revealing of any such matter or thing as shall be so done or intended to be done contrary to the true meaning of this our grant or any the laws and ordinances so by the said [Fellowship] to be made and set down as aforesaid, without any further or other warrant from Us our heirs or successors to be procured or obtained in that behalf, And the person or persons offending to punish or otherwise deal withal according to our pleasure before in these presents expressed :

And forasmuch as it will be most necessary for the managing of the said trade that there be some form of government as well in the said mart towns and places of residence beyond the seas and otherwise in other towns of this our Realm where it shall be thought fit as in the principal seat of government here within our City of London, unto which nevertheless the said inferior governments are to be subordinate and to

<sup>1</sup> Abode, residence (obs.); see *N.E.D.*, and cf. 'resiant,' which follows in text. The words occur in the grant of 1564.



have relation and correspondence, Therefore *of our more especial grace certain knowledge and mere motion* We do ordain and appoint, and by these presents for Us our heirs and successors grant and confirm, unto the said [Fellowship &c.] that the [Fellowship or majority, thirteen at least,] being assembled together in any convenient place in our said City of London or elsewhere within this our Realm shall have full power and authority from time to time for ever hereafter at their liberty and pleasure to name choose and elect out of the generality of the said Fellowship such and so many substitute or substitutes deputy or deputies in every place of resiance as well beyond seas as within this Realm together with so many associates<sup>1</sup> to be joined unto the said substitutes as the [Fellowship] or the major part of them resiant in London, being thirteen at the least, shall in their wisdom think meet, and the same from time to time to alter and amove at their pleasure, unto which substitute or substitutes and associates [etc.] We do by these presents for Us our heirs and successors give full power and authority from time to time to meet and assemble themselves together in some convenient place or places within the said countries towns and places both beyond the seas and here in England whensoever to them it shall seem most convenient for the weal of the said Company or Fellowship, and by themselves or the most part of them in any of the said places so assembled to keep and hold Courts and Convocations and to order put in execution do and perform such acts things and matters whatsoever as the said [Fellowship &c.] resiant here in London may do perform and execute by virtue of these presents, having first allowance and authority from the said Governor Deputy and the most part of the associates resiant in London for the same and being agreeable to such rules ordinances and directions as they shall receive and shall be prescribed unto them by the Governor Deputy and associates resiant in London :

Notwithstanding our will and pleasure is that the said substitutes and associates so from time to time to be nominated elected and chosen to be resident in those parts beyond the seas or in the towns here in England shall not intermeddle with the execution of any the premises [unless they have first taken their corporal oath, as above ; power to administer same] :

And for the better encouragement of the said Company or Fellowship and their successors from time to time hereafter to proceed and go forwards in this worthy intended work, We *of our further especial grace certain knowledge and mere motion* for Us our heirs and successors covenant promise and grant to and with the said [Fellowship &c.] by

<sup>1</sup> Cf. the 'associates' in early gilds, Gross, *Gild Merchant*, ii pp. 119, 127.

these presents that if the said Company or Fellowship or their successors shall find out by course of trade and their further experience and shall desire other liberties privileges and authorities for their better help and assistance in the progress and proceeding of their trade, Then We our heirs and successors, upon the humble Petition of the said Company or Fellowship to Us our heirs and successors at any time or times hereafter to be made and upon allowance of the same by the Privy Council of Us our heirs and successors, will give and grant unto the said Company or Fellowship and their successors such other and further reasonable liberties and privileges as shall be thought fit for the better supporting and maintaining of their trade :

And for the better encouragement of the said [Fellowship] to proceed in exportation of cloths dressed and dyed here in this our Realm, which will tend so much to the common weal of the same and which by the said Company or Fellowship cannot as yet in such full manner be perfected as that they can have sufficient vent for the said dressed and dyed cloths in foreign parts without a temporary liberty to export cloths white until by continuance of time they shall be further enabled and encouraged, We do by these presents for Us our heirs and successors *of our further especial grace certain knowledge and mere motion* give and grant unto the said [Fellowship &c.] full and free liberty licence power privilege authority and immunity that they or any of them by themselves or by their or any of their servants factors or agents at their or any of their liberties and pleasures yearly and every year shall and may provide and buy or cause to be provided and bought within this our Realm of England and other our Dominions for their or any of their proper use or uses the number of thirty thousand woollen cloths unrowed <sup>1</sup> unbarbed <sup>2</sup> and unshorn and not fully and ready dressed and wrought, of which said number of thirty thousand cloths yearly five and twenty thousand shall be every cloth above the value or price of six pounds of lawful money of England and the number of five thousand cloths residue of the said yearly number of thirty thousand cloths uncoloured or white above the value or price of four pounds of lawful money of England or of any higher or greater prices whatsoever, and the same in any ship or ships bottom or bottoms vessel or vessels being of our Realms and Dominions when as often as to them or any of them their or any of their servants factors or agents shall seem good in any part or parts of this our Realm of England to freight lade and ship, and the same from this our Realm of England into the towns of Callice and the marches thereof in the Realm of

<sup>1</sup> See *N.E.D.*, s.v. "rough," v. 1, and "row," v. 7: "to raise a nap on (cloth)."      <sup>2</sup> Unclipped. Cf. *N.E.D.*, s.v. "barb," v. 2.



France and into the countries and towns of Holland [etc. as above] to transport send <sup>1</sup> convey ship and carry over or cause to be transported sent shipped conveyed and carried over, there to be by them unladen discharged vented sold uttered bartered exchanged merchandised or otherwise disposed at their or any of their wills and pleasures and to their or any of their most benefit and advantage, and from thence to freight lade ship return import and bring back into this our said Kingdom or into any part thereof all such wares commodities goods and merchandises already not prohibited as to them or any of them their servants factors or agents shall seem good, paying to Us our heirs and successors our duties and customs due and to be paid for the same, and further paying unto our trusty and wellbeloved Cousin the Earl of Cumberland his executors or assigns for every white unwrought or undressed woollen cloth so to be by them or any of them shipped or transported out of this Realm under the warrant of his present licence <sup>2</sup> over and above the said thirty thousand cloths two shillings and eight pence which is the usual rate our said Cousin now or lately hath or doth receive and take for every such white unwrought or undressed woollen cloth so shipped or transported, Any law statute act provision prohibition or restraint to the contrary notwithstanding : <sup>3</sup>

And our will and pleasure is, And We do hereby declare our Royal intent and meaning to be, and the said [Fellowship &c.] do covenant promise and agree to and with Us our heirs and successors by these presents, that they and their successors shall from time to time and at all times do their utmost endeavours, that after the end and expiration of the said three years ensuing during which the proportion of thirty six thousand cloths are undertaken to be exported as is before in these presents expressed, that their trade of exporting and merchandising into the foresaid countries provinces towns and places aforesaid of woollen cloths may be wholly reduced unto the venting of such cloths only as shall be dyed and dressed here within this our Realm and other our Dominions so far forth as it shall please God to give them and their successors ability and the trade encouragement, Anything in these presents contained to the contrary notwithstanding :

*Provided always* that it may and shall be lawful for all and every the subjects of Us our heirs and successors by themselves or their servants to buy within any of the cities towns countries or places

<sup>1</sup> Patent Roll "and."

<sup>2</sup> An Order of 16th May 1602 gave the Earl two shillings and twopence for every cloth. See also *S.P.D.*, Jac. I. (1604), vi. 104.

<sup>3</sup> Cf. the licence to the Merchant Adven-

turers trading to Brabant &c. (*Patent Rolls*, 3 & 4 P. & M. pt. iii.), to transport 5000 white or coloured cloths 'unrowed unbarbed and unshorn'; and another example, later, to Thomas Smyth (*Patent Rolls*, 25 Eliz. pt. ii.).

before mentioned horses harness powder or any other munition for the wars books corn butter and cheese flesh and fish, and the same to bring over into this Realm for better provision service and defence of the same, Any clause or article herein contained to the contrary thereof in any wise notwithstanding :

*Provided also* that these our Letters Patents or any thing herein contained shall not in any wise be prejudicial or hurtful unto or otherwise impeach the Mayor Constables and Fellowship of Merchants of the Staple of England<sup>1</sup> or their successors or any particular person of the said Fellowship that now is or hereafter shall be, or the merchants commonly called the Merchants of Eastland<sup>2</sup> or their successors or any person of the same Fellowship that now is or hereafter shall be, that they and every of them shall and may fully and freely have and enjoy all and every such grants liberties and privileges as have heretofore been granted unto them or either of them or to any their predecessors by Us or any of our Progenitors, which they or any of them have heretofore lawfully used or had in as large and ample manner and form as they or any of them might lawfully have done before the date of these presents and not otherwise, Any clause article or restraint in these presents contained to the contrary notwithstanding : \*

*Provided also* that these our Letters Patents or any matter or thing therein contained shall not extend to give authority or power to the said [Fellowship of the King's Merchants &c.] or to any member or person of the said Company to transport or carry out of the Realm any cloths kersies wares commodities or merchandises whatsoever which by the laws and statutes of this Realm are restrained or prohibited to be transported or carried over the seas otherwise than according to the true intent and meaning of these presents, unless they shall obtain and procure licence for the same :

*Provided also* that if it shall seem good to Us at any time hereafter to revoke repeal or make void and frustrate this our present grant and Letters Patents and any article matter or clause therein contained, that then it shall and may be lawful for Us at all times and from time to time during our life by our other Letters Patents under our Great Seal of England to be directed to the said Governor or his Deputy and Assistants for the time being, to revoke repeal or make void these our Letters Patents and every grant clause and article in the same contained or so much thereof as to Us shall seem meet and convenient to be repealed,<sup>3</sup> And that then these our Letters Patents, or so much

<sup>1</sup> See *ante*, p. xxi.

<sup>2</sup> See *ante*, pp. xxii-xxiii.

\* As in the Elizabethan charter of 1564 (*ante*, p. xiii (8)).

<sup>3</sup> For the ultimate revocation, Nov. 27, 1617, see *S.P.D.*, Jac. I., xciv, 36 (Sign Manual, viii, 77), and *ante*, p. lxxviii.



herein contained as We at any time or times during our life shall by other Letters Patents under our Great Seal of England signify and declare unto the said Governor or his Deputy and Assistants for the time being that our pleasure is to have to be repealed and made void, shall from thenceforth be utterly void and of none effect to all intents and purposes, Any thing in these presents contained to the contrary in any wise notwithstanding : \*

*And further of our more abundant grace certain knowledge and mere motion* We do by these presents for Us our heirs and successors grant unto the said [Fellowship &c.] that they and their successors shall absolutely freely quietly and peaceably under the cautions provisos and limitations herein before mentioned have hold use exercise and enjoy all and singular grants powers privileges liberties authorities and things whatsoever to them in and by these presents given or granted or mentioned or intended to be hereby given or granted, without any molestation trouble vexation let or denial of Us our heirs or successors or of any of our or their officers or ministers or of any other person or persons whatsoever, according to the true and plain intent and meaning of these presents :

And that these our Letters Patents or the enrolment thereof shall be in all respects firm good available and effectual in law against Us our heirs and successors as well in all our Courts as elsewhere within this Realm of England, and shall be construed taken and accepted most favourably and beneficially for the good of the said [Fellowship &c.] without any further or other licence warrant or toleration from Us our heirs and successors to be procured or obtained :

Notwithstanding the misnaming mentioning or reciting of any the liberties powers privileges grants or things whatsoever hereby granted or intended to be granted, and notwithstanding any defect in these presents whatsoever or any law statute Act of Parliament ordinance provision or proclamation heretofore had made set forth ordained or proclaimed or any other matter cause consideration or thing whatsoever to the contrary in any wise notwithstanding :

And further our will and pleasure is that the said [Fellowship] shall have these our Letters Patents under our Great Seal of England without any fine or fee great or small to Us our heirs or successors to the use of Us our heirs or successors in our Hamper or elsewhere to be given or paid therefore : \*

Although express mention &c.

In witness &c. witness our self at Westminster the nine and twentieth day of August

*per breue de priuato sigillo.*

\* As in the Elizabethan charter of 1564, (*ante*, p. xiii (8).

AFRICAN COMPANY <sup>1</sup>

(Patent Rolls, 16 Jac I. pt. vi.)

JAMES *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas* divers of our loving subjects have by their long travel and industry and at their great charges and expenses discovered and found out <sup>2</sup> a trade into certain places in Africa hereafter mentioned where there are divers commodities and merchandises necessary for the subjects of our Kingdom and Dominions,

*And Whereas* We are credibly informed that the setting on foot and prosecuting of voyages thereof and the due establishing of an orderly traffic and trade of merchandise unto that continent will not only be beneficial to our said Realms and Dominions but also profitable to Us in advancement of our customs,

*And Whereas* our trusty and wellbeloved *Sir Robert Rich Knt, Lord Rich, Sir Robert Mansell Knt*, our Vice-Admiral of England, *Sir Ferdinando Gorges Knt, Sir Warwick Heale Knt, Sir Allen Appesley Knt, Sir Richard Hawkins Knt, Sir Henry Nevill Knt, Sir William St. John Knt, Sir Thomas Tracy Knt, Sir Richard Bingley Knt, Sir Giles Mompeyson Knt, Sir Thomas Dutton Knt, Sir Francis Blundell Knt, Sir Arnold Herbert Knt, Sir John Bingley Knt, Sir Henry Williams Knt*, and our wellbeloved subjects *Abraham Williams, Anthony Bugges, Oliver St. John, Oliver Nicholas, William Herbert,<sup>3</sup> Thomas Emerson, Edmund Sadler, Thomas Morgan, Meredith Morgan, Lewis Powell, George Dunscombe, Thomas Love, Phillipp Jones, Samuell Croke, William Dackombe, Esquires, John Davies, John Watkins, Michall Best, Richard Salford, and William Awdely*, merchants, have joined together and resolved to run one uniform course in the setting up and prosecuting a trade of merchandise into those parts, and have humbly made petition unto Us that We would be graciously pleased to make them and their

<sup>1</sup> See Introduction, *ante*, pp. xlii–xlvi, and cf. subsequent charters printed *post* at pp. 172–7, 177–81, 186–92.

<sup>2</sup> Complaint was made (see *S. P. Dom.* Jac. I. clxv) in 1624 that the ‘Ginny and Binny patent’ was ‘granted upon untrue suggestion that some of the patentees had been the first discoverers of that trade, whereas it is apparent that those parts have been traded to about fifty years since by Sir John Hawkins deceased and since by divers other merchants, tending also to

the great wrong and impoverishing of your subjects by depriving them of their lawful trade and raising the price of those merchandises to a most extreme rate being of necessary use for dyers and clothiers.’ The answer is :—‘It is delivered into the hands of the Clerk of the Parliaments, and it is left to the law, And it shall not be exercised in the meantime.’ See *ante*, p. xlv, and cf. *post*, p. 136 (1).

<sup>3</sup> Elsewhere in this grant spelt Harbert.



partners a body corporate and give them power and privilege to trade into the parts of Africa hereafter named as in case of other trades and discoveries hath been accustomed, whereby they may be encouraged not only to proceed in a present trade but to adventure their money and labour for a further discovery than hath ever yet been attempted by any in those parts, which they presume by God's assistance will turn to the great benefit of Us and our Realms,

*Know ye that We* having had consideration of the premises are very willing to incline to their petition and the rather in regard it is an enterprise tending to so worthy an end as the increase of the trade traffic and merchandise used by the subjects of this our Kingdom being famous through all nations,

*And therefore* to the encouragement as well of the said undertakers hereunto as of all others to the like laudable enterprises and for other good causes and considerations Us hereunto moving, *of our especial grace certain knowledge and mere motion* We have willed ordained constituted and appointed given and granted, And by these presents for Us our heirs and successors we will ordain [&c.] unto the said [persons aforesaid] and all such others of our subjects as they shall think convenient to receive into their Company and Society to be traders and adventurers with them to the said countries shall be one body corporate and politic of themselves in deed and in name by the name of **Governor and Company of Adventurers<sup>1</sup> of London trading into the parts of Africa:**

And them by that name one body corporate and politic in deed and in name We do for Us our heirs and successors make create ordain constitute appoint and confirm by these presents :

And that by the same name they shall have perpetual succession :

And that they and their successors by the name [aforesaid] be and at all times hereafter shall be persons able and capable in law to have take purchase receive possess and enjoy manors messuages lands tenements rents liberties privileges and hereditaments of whatsoever kind nature or quality to them and their successors and to alien and dispose thereof as they shall think fit and convenient :

And that they and their successors by the names <sup>2</sup> [aforesaid] shall and may be persons able and capable in law to plead and be impleaded [etc.] in whatsoever Courts [etc.] as any other our liege people [&c.] by any lawful ways or means whatsoever :

And that it shall and may be lawful for the said Governor and

<sup>1</sup> The Patent Roll here, and occasionally elsewhere in this grant, reads 'Adventures.'

<sup>2</sup> Cf. *per nomina*, ante, p. cxxxiv.

Company and their successors to use and have a common seal for all the causes and businesses of them and their successors, which seal our will and pleasure is shall be engraven and set forth in manner and form following, that is to say, On the one side the coasts and rivers of the said parts of Africa with a ship at anchor with many little shallops with oars issuing out and going up the rivers upon discovery rounded with the title of the said Company, and on the other side with the image of the Royal Person of Us our heirs and successors, without any further warrant to be had or obtained from Us our heirs and successors in that behalf :

And for the better ordering and government of the said Company [there shall be one Governor and one Deputy to act in his absence, and twelve of the Company] who shall be and shall be called Committees or Directors<sup>1</sup> of the said Company, who shall be aiding and assisting [the Governor and Deputy upon the Company's affairs] and together with the Governor of the said Company or his Deputy for the time being shall have the direction of the voyages and of the provision of shipping and merchandise and of all other things thereunto belonging, and also of the sale of all goods and merchandises which shall be returned in any of their said voyages and the managing of the trade and ordering of all their businesses and affairs belonging to the Company for so much as they shall trade in joint stock :

And likewise We do hereby for Us our heirs and successors will ordain and appoint that the said Governor and Company [aforesaid] shall from henceforth for ever be ruled ordered and governed by and be obedient unto such ordinances constitutions and provisions as are hereafter in these presents expressed or shall by virtue or force of and according to the true meaning of these presents be made constituted and set down and no otherwise :

And for the better execution of our will and pleasure herein We have [nominated *Sir William St John* to be first Governor, until November 2nd, 1619] if he so long live, and from thence until another Governor shall be chosen and sworn in manner hereafter expressed, which *Sir William St John* [We will shall before executing his office] take his corporal oath upon the Holy Evangelist for the true and faithful execution thereof before our trusty and wellbeloved *Sir Thomas Coventrie* Knt, our Solicitor General, unto whom We do hereby give

<sup>1</sup> The title 'Assistants,' found in Henry VII.'s charter to the Merchant Adventurers (cf. *ante*, p. 2), is a link with the 'help-men' of the gilds, cf. Toulmin Smith, *Gilds*, pp. 156, 160, and *ante*, pp. xxx (3), 94(1). The East India Company had com-

mittees' (*ante*, p. xlix), though the first entry in its minutes (Sept. 1599) mentions 'committees or directors.' The African 'Directors' seem to be the first company officials to be so styled.



full power and authority to administer an oath [to the said Governor without further warrant]:

And because We our self cannot for the present discern, by reason of the smallness of the Company being but now begun and not settled, what persons are fit to be Committees and Directors and other officers who may be resident here about our City of London to be assistant to the Governor in the doing and effecting of the affairs and businesses of the said Company, some of them being employed by Us and others about their own necessary affairs in the country, We do hereby grant unto the said Governor and Company that it shall and may be lawful to and for the said *Sir William St John* the present Governor of this Company to nominate and appoint as well the first and modern Deputy Governor and Committees Directors of the said Company as a Treasurer and other officers in any sort to be employed for the better government direction and assistance of or to the said Company,<sup>1</sup> to continue in their several places until new be elected and chosen according to the true meaning of these presents, Which said Deputy Governor and Committees and other officers our pleasure is shall take their several corporal oaths for the true and faithful execution of their several places [before admission thereto, before *St John*; authority to him to administer oath]:

[Power to the Company on November 2nd, 1619, and yearly then or within thirty days after, to meet in London or elsewhere in England and choose a Governor for the following year, who shall take oath &c.] before the old Governor his predecessor and six or more of the Committees and Directors of the said Company for the time being; [power to administer oath; power to elect a Deputy and twelve Committees &c., a Treasurer and other officers for the coming year; provision for their oath before the Governor;] And if it shall happen the Governor of the said Company for the time being to die or otherwise in respect of his misbehaviour or ill government to be duly removed out of his place or office, which Governor our will and pleasure is shall be removable at the pleasure and discretion of the Committees or Directors and generality of the said Company being assembled together or the greater part of them or so many of them as upon such occasion will meet together, That then and so often it shall and may be lawful to and for the said Committees and Company or the greater part of them so assembled to make a new election [of a Governor for the remainder of the year, who shall be sworn before six or more Committees &c.; similar power to replace other officers]:

[Power to assemble and hold Courts and make and execute laws &c.,

<sup>1</sup> Cf. the power in Cunningham's Scottish East India Co. grant (*ante*, p. 1 (9)), and that of Murford and Hamworth, *post*, p. 151.

impose fines &c. ; such laws We will to be observed if] reasonable and not repugnant to the laws of our Realm :

*And further of our especial grace certain knowledge and mere motion* We do hereby for Us our heirs and successors grant unto the said Governor and Company and their successors that it shall and may be lawful to and for the said Governor and Company their successors and assigns and to and for all and every such person and persons as are or shall be free of the said Company and none other, from time to time to set to sea such and so many ships pinnaces and barks as shall be thought fitting by the Governor and Committees of the said Company for the time being or the more part of them assembled, prepared and furnished with ordnance artillery and munition or any other habiliments in warlike manner fit and necessary for their defence, and shall for ever hereafter have use and enjoy the whole entire and only trade liberty use and privilege of trade and traffic with and from the parts of Africa hereafter mentioned, that is to say, into and from all and singular regions countries dominions territories continents coasts and places now or at any time heretofore called or known by the name or names of Gynney and Bynney<sup>1</sup> or by either of them, or which are or have been reputed esteemed or taken to be part parcel or member of any region country dominion territory or continent called Gynney or Bynney, and into and from all and singular ports havens rivers creeks islands and places in the parts of Africa to them or any of them belonging, or being under the obedience of any King State or Potentate of any region dominion or country in Gynney or Bynney aforesaid, for buying and selling bartering and exchanging of for and with any goods wares or merchandises whatsoever to be vented or found at or within any of the cities towns or places and rivers situate and being in the countries places parts and coasts before mentioned, Any law statute grant matter custom or privilege to the contrary in any wise notwithstanding :

And likewise that it shall and may be lawful for the said Governor and Company and their successors and assigns and for all and every person and persons being or which shall be free of the said Company from henceforth at any time or times and from time to time after the dates of these our Letters Patents, to use prepare and set to sea such and so many ships barks and pinnaces and such number of men to sail therein for the further discovery of the said rivers and places before mentioned and all lands dominions and territories within the compass of the same as they shall think fit and necessary :

<sup>1</sup> Hakluyt prints accounts of several voyages to Guinea and Benin made by Hawkins and various adventurers (see volumes vi. and x.). See above, p. 99, footnote (2).



Paying unto Us our heirs and successors such customs subsidies imposts and other duties as shall be due and payable for and in respect of any goods wares or merchandises by them or any of them to be exported or imported by virtue of these presents :

And of our further royal favour We have granted and for Us our heirs and successors We do grant unto the said Governor and Company and their successors, that the said rivers places and passages in the tract aforesaid or any of them or the lands seigniories or dominions thereto adjoining shall not be visited frequented or traded unto by any other of our subjects or the subjects of Us our heirs or successors either from any the ports or havens belonging or appertaining or which shall belong or appertain unto Us our heirs or successors or unto any foreign Prince State or Potentate whatsoever :<sup>1</sup>

And therefore We do hereby for Us our heirs and successors charge command prohibit and forbid all the subjects of Us our heirs and successors of what degree or quality soever they be, that none of them directly or indirectly presume to visit frequent trade or adventure to traffic into or from the said rivers lands dominions and places aforesaid or any of them other than the said Governor and Company their successors factors deputies and assigns, unless it be with the licence and consent of the said Governor and Company first had and obtained in writing under their common seal, upon pain of our indignation and imprisonment of their bodies during the pleasure of Us our heirs and successors and the forfeiture and loss both of their ships and goods whensoever they shall be found either within any of our Kingdoms or Dominions or any other place or places out of our Dominions :

And for the better effecting of our said pleasure herein We do hereby for Us our heirs and successors give and grant full power and authority unto the said Governor and Company [&c.] that they by themselves their factors deputies or assigns shall and may from time to time and at all times hereafter attach arrest take and seize all and all manner of ship and ships goods wares and merchandises whatsoever which shall be brought from or carried to the places before mentioned or any of them contrary to our will and pleasure before in these presents expressed, The moiety or one half of all which forfeitures We do hereby for Us our heirs and successors give and grant unto the said Governor and Company and their successors to their own proper use without accompt, and the other moiety or half part thereof We will shall be and remain to the use of Us our heirs and successors :

And We have likewise condescended and granted [etc. that We will

<sup>1</sup> This paragraph and the three following it appear in the New England patent of 1620 (*ante*, p. lxxxv). Cf. the Levant grant, *ante*, p. 38.

not licence <sup>1]</sup> any person or persons whatsoever to sail trade or traffic unto the foresaid parts of Africa without the good will and liking of the said Governor and Company or the greater part of them for the time being at any of their Courts to be assembled :

And our further will and pleasure is, and We do hereby for Us our heirs and successors grant unto the said Governor and Company and their successors that it shall and may be lawful to and for the said Governor and Company for the time being or the greater part of them to be assembled together from time to time to admit and take into their Company such person or persons as they or the most part of them so assembled shall think convenient, and them or any of them to amove displace and put out of the said Company upon good occasion according to the ordinances by virtue of these presents to be made for the government of the said Company, The said persons and every of them so to be admitted first paying and allowing for their and every of their admission unto the said Governor and Company and their successors for and in the name of a fine such reasonable sum of money as the Governor and Committees of the said Company for the time being or the more part of them shall assess :

And our will and pleasure is that all and every the sons of any of the present Governor and Company or other persons hereafter to be admitted into the said Company shall and may be admitted and incorporated into the said Company at such time and times as they shall accomplish their several ages of one and twenty years, Paying for their admission or admissions only twenty shillings apiece and no more, And that all such servants and apprentices as now are or shall be at any time hereafter bound as an apprentice unto the said Governor and Company or their successors or other persons to be admitted into the said Company or any of them shall and may likewise be admitted into the said Company at the end and expiration of their and every of their apprenticeships, Paying and allowing [as above] the like several sums of twenty shillings and no more nor otherwise :

All which several fines and sums of money so to be received and taken for the several admissions as aforesaid shall be and remain for ever to the use of the said Governor and Company in general and their successors :

And further We do hereby for Us our heirs and successors charge and command all and singular Admirals Vice-Admirals Generals Commanders Captains Justices of the Peace Mayors Sheriffs Bailiffs Constables Customers Comptrollers Collectors Waiters <sup>2</sup> Searchers and all other the officers and ministers of Us our heirs and successors

<sup>1</sup> As in Levant charter, *ante*, p. 41.

<sup>2</sup> See footnote, *ante*, p. 92.



whatsoever, to be from time to time in all things aiding helping and assisting unto the said Governor and Company and their successors or any of them upon request made, as they tender our pleasure and will avoid the contrary at their perils :

And lastly our will and pleasure is, and by these presents for Us our heirs and successors We do grant unto the said Governor and Company [aforesaid] that these our Letters Patents and all and singular grants clauses and things therein contained under the conditions and limitations therein mentioned and expressed shall be and continue firm strong sufficient and effectual in the law and shall be construed reputed and taken as well in the meaning and intent as to the words of the same most graciously and favourably and to the benefit of the said Company and their successors, Any omission or defect in these presents or any other cause or matter to the contrary notwithstanding :

Although express mention &c. :

In witness &c. witness our self at Westminster the sixteenth day of November,

*per breue de priuato sigillo.*

## NEW RIVER COMPANY<sup>1</sup>

(Patent Rolls, 17 Jac. I. pt. xvi)

JAMES *by the Grace of God King of England Scotland France and Ireland, Defender of the Faith &c.*, To all to whom these presents shall come, Greeting :

*Whereas* several Acts of Parliament were made [(brief recital of the statutes 3 Jac. I. c. 18 and 4 Jac. I. c. 12)<sup>2</sup>] by virtue and authority of which Act and Acts the Mayor Commonalty and Citizens of our City of London and their successors have liberty given them and are thereby enabled to bring a fresh stream of running water to the north parts of our said City of London from the springs of Chadwell and Amwell and other springs in the County of Hertford not far distant from the said springs, either in an open cut or in close trunk vault of brick or stone,<sup>3</sup> which work upon view was found very feasible and was like to be profitable to many, As by the said Acts more at large appeareth,

*Nevertheless* the said Mayor [etc.], weighing the great charge and

<sup>1</sup> See Introduction, pp. cxxiii-cxxv.

<sup>2</sup> See *ante*, p. cxxiii (7).

<sup>3</sup> The statute 4 Jac. I. c. 12 provided for enclosing the water in a vault.

expense the said work would require and doubting what damage and loss might fall upon the Chamber of the said City in case the work should not fall out to be both beneficial and gainful, did thereupon forbear at their common charge to undertake that work, so as the same lay long neglected and unlike by them to be performed,

*And whereas Hugh Middleton*, Citizen and Goldsmith of London, well affecting the good of our said City of London, and being moved with a desire and zeal to perform so public necessary and worthy a work to that City whereof he is a member, was willing to adventure and upon his own private charge to undertake the said work, and did out of a pious and commendable purpose make offer to the Lord Mayor Aldermen and Commons of our City of London assembled in a Common Council holden within the said City the eight and twentieth day of March in the seventh year of our Reign of England France and Ireland to undertake the said work and fully and perfectly to do execute and perform at the proper costs and charges of him his heirs and assigns whatsoever on the part and behalf of the said Mayor Commonalty and Citizens by and according to the Acts of Parliament or the true intent and meaning of the same Acts or either of them was or should be necessary and convenient to be done and performed, and withal to save and keep harmless the said Mayor [etc.] for ever of and from all charges and damages losses hindrances and expenses that should or might anywise arise or grow by occasion or means of the foresaid work or any thing thereto belonging or thereupon following, And to make such agreements with every party interested in any soil through which the said river or stream should be brought, and to give such recompense satisfaction and amends to any party which should be damnified put to a loss or hindered by the said work as the said Mayor [etc.] might any ways be charged withal either by reason of the said Acts of Parliament or either of them or anything done in the performance thereof or whatsoever should arise by means or occasion of the said works, So always as he the said *Hugh Middleton* his heirs and assigns might be constituted and appointed jointly and severally the lawful deputy or deputies attorney or attorneys agents or assigns to and for the said Mayor [etc.] to do execute and perform whatsoever by virtue of the said Acts or either of them the said Mayor [etc.] had power liberty or authority to do by them or their deputies or workmen, and so as the said Mayor [etc.] would condescend and agree to grant convey and assure to the said *Hugh Middleton* his heirs and assigns for ever the whole and entire profit benefit and commodity that should or might arise come or grow by the said river or water and the disposition or distribution thereof and of every or any part or parts thereof into the several parts and



places of the said City and Suburbs thereof, and that he [etc.] should and might have liberty for laying of pipes for conveyance of water in by and through all parts and places where the said Mayor [etc.] had power and authority to do and license the same to be done, And that all contracts bargains and agreements to be made for the said water or any part thereof and the whole benefit profit and commodity thereby coming growing or arising from time to time should and might be to and for the sole use and behoof of the said *Hugh Middleton* his heirs and Assigns for ever,

*Whereupon* the said Lord Mayor Aldermen and Commons in the said Common Council assembled, well weighing and considering the offer made by the said *Hugh Middleton* as aforesaid, after long and deliberate consultation and advisement had and taken among themselves in the said cause, declared their very good liking thereof and willingly accepted and embraced the said offer as a thing of great consequence and worthy of acceptation for the good of the said City as by the said Act of Common Council more fully may appear,

And thereupon the said Mayor Commonalty and Citizens by their Indenture under their common seal bearing date the eight and twentieth day of March in the ninth year of our Reign of England France and Ireland made between them the said Mayor [etc.] on the one party and the said *Hugh Middleton* on the other part have made constituted and appointed the said *Hugh Middleton* his heirs and assigns jointly and severally their true and lawful attorneys deputies and agents in their names but to the only benefit and behoof of the said *Hugh Middleton* his heirs and assigns for ever to do execute and perform whatsoever by the said Acts of Parliament or either of them the said Mayor [etc.] were authorised to do or lawfully might do,

And the said Mayor [etc. did thereby &c.] fully freely and absolutely grant convey assign and confirm unto the said *Hugh Middleton* his heirs and assigns for ever the whole entire and sole profit benefit commodity and advantage whatsoever that should or might be raised gained or gotten by the said river new cut and stream and the water and benefit of the water that might come or be conveyed thereby together with the free liberty of laying and conveying the pipes for the currency and passage of water in by and through all parts and places convenient where the said Mayor [etc.] have power interest or authority so to do or to licence or grant it so to be done,

*Whereupon* the said *Hugh Middleton* in and by the said Indenture did undertake to perform the said work and to save harmless the said Mayor [etc.] from all damage and losses that might thereby come or happen to the said Mayor [etc.], As by the said Indenture amongst

divers other covenants articles and agreements therein contained more at large may appear,

*And whereas* the said *Hugh Middleton*, by virtue of the said Acts of Parliament and of the power and authority granted to him by the said Mayor [etc.], had begun to convey the said springs in a new channel and river towards the City of London and so far proceeded therein as he had brought the same waters divers miles towards the said City, yet, finding the charge of the said work greater and heavier than at first was expected the success thereof doubtful and the oppositions made against it very strong<sup>1</sup> besides many other difficulties, thought fit to join unto him for help therein some other friends such as were well affected to the work and willing to adventure and join in contribution towards the charge thereof,

*Whereupon* divers our loving subjects hereafter named well affecting the said work both past and to come for such rateable parts and portions in the said work as was agreed between them and in regard thereof it was likewise agreed that the said Adventurers should have and receive severally to them and their heirs rateable shares and parts out of the profits to grow and arise out of the same according to the proportion of their several disbursements and adventures,

After which time the said *Hugh Middleton* and the said Adventurers at their great charge proceeded so far in bringing the said river towards the said City of London that it not only appeared to be feasible but likewise also to be a work of great use benefit and comfort to the common wealth and especially to our said City of London,

Which We considering, out of our royal and gracious inclination being willing to give our aid and furtherance to so good and public and commodious a work, by Indenture<sup>2</sup> under our Great Seal of England bearing date the second day of May in the tenth year of our Reign of England France and Ireland, made between Us on the one part and the said *Hugh Middleton* on the other part, with consent of the said Adventurers did agree to bear and pay the one half and moiety of all the charges disbursed and expended and to be disbursed and expended in and about the bringing and perfecting of the same work, and the said *Hugh Middleton* for and in consideration of the powers liberties privileges authorities payments and other things to him the said *Hugh Middleton* his heirs executors and administrators in and by the said last mentioned Indenture granted and to be paid and performed, did by the same Indenture for him his heirs and assigns covenant promise and grant to and with Us our heirs and successors that we our heirs and successors,

<sup>1</sup> See Introduction, *ante*, pp. cxxiii-iv.

*Patent Rolls*, 10 Jac. I. pt. x: see *ante*, p. cxxiv (6).



well and truly paying such sum of money disbursed verified or proved as in the said Indenture is mentioned and at the times therein limited or within one and twenty days respectively ensuing, should have and receive for ever the one half of the benefit profit and commodity of the said water and of the conveying of the same to and from all places,

And that the said Mayor [etc.] and the said *Hugh Middleton* his heirs [&c.] should and would from time to time do and suffer to be done all acts and things for the assuring and sure making of the same to some such person or persons and in such manner and form as We our heirs and successors should nominate and appoint, And that the same assurances should be from time to time renewed altered or amended as should be appointed by Us our heirs or successors or any of them or by our Counsel learned in the law, so as the interest should and might be still settled and kept in a subject and not in Us our heirs or successors,<sup>1</sup> according to the purport effect and true meaning of the covenants and agreements [of the Indenture of March 28th] as by the same more fully and at large it doth and may appear,

*And whereas* the said *Hugh Middleton* and the said Adventurers with great expense and charge both of Us and of themselves in particular have proceeded in the said work, and after many difficulties and oppositions undergone therein have by our aid and furtherance and with the special labour care and industry of the said *Hugh Middleton* long since brought the said fresh stream into our said City of London and into the suburbs thereof and also into our City of Westminster and distributed the same by pipes through many parts thereof, All which notwithstanding the said work hath not hitherto yielded such profit as was hoped for partly by reason of the expenses daily arising far greater and heavier than by the said Adventurers was expected, and partly for want of power in them to settle the carriage and government thereof in such order and form as is fit and convenient,

*Know ye therefore that We*, for the settling and establishing of the said work and the profits and commodities thereof in time to come to such intents uses and purposes as are herein mentioned, that is to say for and concerning the one moiety thereof (all necessary charges and expenses deducted) to the use of Us our heirs and successors, and for the other moiety to the use of the said *Hugh Middleton* and the said Adventurers their heirs and assigns rateably and respectively according to the proportions of their several disbursements adventure and parts therein,

And to the end they may be the better encouraged to take pains hereafter in perfecting and preserving the said work, and enabled to make and execute good orders for the maintaining and continuing of the

<sup>1</sup> See *ante*, p. li.

same, and receive assurance of their several parts and shares of the clear benefit and profit of the said work to them their heirs and assigns for ever, And upon the humble Petition of the said *Hugh Middleton* and the rest of the said Adventurers, of our especial grace certain knowledge and mere motion have written granted ordained created and appointed, [and hereby etc. for Us etc. will, grant etc.,] that our wellbeloved subjects *Hugh Middleton*, Citizen and Goldsmith of London, *Sir Henry Mountague* Knight, Lord Chief Justice of our Court of King's Bench, *Sir Robert Killigrew* Knight, *Sir William Burlacie* the elder, Knight, *Sir Thomas Middleton* Knight, Citizen and Alderman of London, *Sir Lawrence Hide* Knight, *Sir William Burlacie* the younger, Knight, *Sir Henry Nevill* Knight, *Nicholas Hide* of the Middle Temple, London, Esquire, *John Packer* Esquire, *Samuel Backhouse* Esquire, *John Backhouse*, his son and heir, Esquire, *Robert Bateman* of London, skinner, *Henry Middleton*, son and heir of *David Middleton*, late of London, gent., deceased, *Humfrey Hall* of London, girdler, *Peter Vanlore*, merchant stranger, *Rowland Backhouse* of London, mercer, *Timothie Middleton* of London, Esquire, *Hugh Middleton*, son and heir of *Hugh Middleton*, goldsmith, *William Middleton* of London, draper, *Richard Middleton* of London, grocer, *William Middleton* of London, goldsmith, *Marmaduke Rawden* of London, clothworker, *Henry Vincent* of London, leatherseller, *William Bateman* of London, grocer, *John Farror* of London, skinner, *Edward Prichard* of London, skinner, *James Bearblocke* of London, gent., and *Gabriell Newman* of London, goldsmith, and all and every person and persons which hereafter according to the true intent of these presents shall be elected and chosen into the room or place of them or any of them which shall die or be removed, for ever hereafter be and shall be by force of these presents one body corporate and politic in deed fact and name and by the name of **The Governor and Company of the New River brought from Chadwell and Amwell to London :**

And them [by that name We fully incorporate, with perpetual succession, power in law to take manors lands tenements rights goods etc. of all kinds] in fee and perpetuity or otherwise howsoever [and to demise lease sell and dispose of the same, power to plead and be impleaded etc., to have a common seal, and to have] one of the most sufficient and discreet persons of the said Company [chosen as Governor as hereinafter expressed], for the calling of Courts Assemblies Councils and Consultations and for the better direction and necessary dispatch of the affairs and businesses concerning the said Company ; [one other to be chosen Deputy Governor] who shall be usually resident within our said City of London or the suburbs thereof,<sup>1</sup> and shall in the absence of

<sup>1</sup> Cf. the London Soapmakers' grant, of Directors of Amicable Society, *post*, *post*, p. 163, and provision as to residence p. 253.



the Governor supply his room and have the like and same authority as the Governor hath ; and that there shall be also one other person of the same Company in manner and form also in these presents expressed to be elected and chosen which shall be and shall be called the Treasurer of the said Company, who shall'from time to time have the receipts of all the rents and profits arising and coming of and by the aforesaid work and the things thereunto belonging as also the disbursing and laying forth of the same or so much thereof as shall be necessary for the charges and occasions touching and concerning the said work by direction of the said Company according to the intent of these presents, and the distribution and payment of the residue of the clear gain and profit thereby arising, all necessary charges and expenses and the officers' fees and allowances first deducted, That is to say, the one moiety thereof to Us our heirs and successors and the other moiety thereof to the several parties interested in the said work according unto their several parts shares proportions and interests and according to the true meaning of these presents :

[These officers and all others duly qualified, or any five, of whom the Governor or his Deputy must be one, may meet &c. to hold Courts &c.] and to make demises and leases of any part or parts of the water coming from the foresaid New River or stream or any profit or advantage of or by reason of the said [River &c.] to any person or persons, either to be derived or conveyed out of the pipes of the said work or otherwise, for any term or estate not exceeding the term of one and twenty years or three lives or any number of years determinable upon one two or three lives, and for such fines and rents and upon such covenants and conditions as they shall from time to time think fit, and also to hear handle and determine all and all manner of businesses matters and things concerning the well preserving or ordering and maintaining of the foresaid works stream and water and the collecting and receiving of the whole profit gain and benefit arising or coming thereof or thereby, and as touching the charges expenses disbursements payments and allowances to be made or given as well for the needful occasions and businesses touching the foresaid work [&c.] or anything thereto belonging as for the officers to be used or employed in or about the said work [&c.] or for the affairs concerning the same and fees and wages to be to them paid and allowed for the same :

And also in the same Courts Assemblies Councils and Consultations in form aforesaid to be holden from time to time, to name make and constitute stewards clerks and such and so many other officers and ministers for the said Company as well for the writing and registering of their grants acts and constitutions and for the oversight repairing maintaining and preserving of the said works stream and water as for

the despatch of other the businesses concerning the said Company and work [&c.] as they shall think fit, And to give and minister unto every of the said officers so to be nominated and appointed his oath for the true due honest and faithful execution and discharge of his or their place or office appointed to him or them so long as he or they shall continue in the same, for the most profit benefit and advantage of the said work [etc.] and of the owners thereof and the affairs and businesses of the same, and for making true accounts of all matters and things within their several offices and employments :

[Power to them or any five or more assembled, whereof the Governor or Deputy to be one, to] make ordain and set down orders ordinances acts of common council laws and constitutions whatsoever reasonable and convenient in writing [for good government and maintenance of the work &c. ; such orders &c. to stand until by other orders altered or revoked, if not repugnant to the laws and statutes of the Realm or our prerogative] :

[*Hugh Middleton* named first Governor, *Robert Bateman* first Deputy Governor, *Rowland Backhouse* first Treasurer, to serve until Tuesday after All Saints 1620, and then till further election ; the Governor to take his corporal oath before the Chief Baron of the Court of Exchequer or any other Baron of the Court (power to administer oath) for true execution of office ; other officers before Governor] :

[Governor and Company, or any seven (Governor or Deputy to be one), may assemble yearly on Tuesday as aforesaid or ten days after and elect officers for the next year &c., who shall take oaths before the existing Governor or Deputy ; power to administer oaths] :

[Any officer dying, departing or being removed,] whom for cause reasonable We will shall be from time to time removable at the will and pleasure of the said Company or any twelve or more of them, [to be replaced, oaths being administered as above] :

And further, *of our especial grace certain knowledge and mere motion*, We have given and granted, [and hereby for Us, our heirs &c.] for the considerations aforesaid as much as in Us is [We give and grant] unto the said [Company] the said New River cut and stream so as aforesaid brought from Chadwell and Amwell to London, with the appurtenances and all manner of profits advantages and commodities thereof or by reason thereof in any sort to be made raised or gotten, To have hold and enjoy the said New River cut or stream and premises with the appurtenances to the said [Company] for ever according to the true meaning of these presents, To be holden of Us our heirs and successors as of our manor of East Greenwich in our County of Kent, in free and common socage by fealty only and not in chief or by knight's service :



And further We will and [hereby &c.] do ordain that the said [Company] at all and every time and times hereafter shall and will well and sufficiently maintain repair preserve and scour the said New River and stream and all the banks and bridges of and belonging to the same as now it is, And that the said [Company] shall and may lawfully alter and change the said New River or cut in by and through any of the grounds or soil of Us our heirs [etc.] without any impeachment or impediment or further or other warrant in that behalf, [and may] take and use the earth digged and cast up out of the said New River or trench already made or hereafter to be made, [and] carry the same to any place or places for the good of the said work stream or water or for the benefit of the said Company of and from the ground or soil of Us our heirs [&c.] :

And further *of our more especial grace certain knowledge and mere motion* We do for Us our heirs and successors hereby give and grant unto the said [Company] full power licence and authority to purchase have receive take and enjoy to the use of the said [Company] for ever as well of the Mayor [&c.] of London as from the said *Hugh Middleton* his heirs and assigns and of and from all and every other person and persons having or claiming any thing in to or concerning the said New River stream water and premises, such estate right title and interest liberties and privileges whatsoever as they or any of them have or ought to have and which may be lawfully passed conveyed granted or any way transferred to the said [Company] :

And likewise [power &c. to purchase of Us or others one convenient messuage in London or the suburbs for a hall or meeting-place (not to be held of Us by knight's service or *in capite*), mortmain statutes &c. notwithstanding] :

And to the end that the said Company may have perpetual continuance and the persons unto whom any parts or portions in the moiety of the benefit arising by the said water work shall come or fall by purchase descent or otherwise may in equal and respective measure for every part and share according to their several parts and shares in the said work have a several voice and dealing in the said Company and work, We do hereby for Us our heirs and successors will ordain and appoint that whensoever and so often as it shall happen any of the said persons before mentioned to have any share or shares out of the moiety of the said New River and of the clear yearly profit from thence arising according to the true meaning of these presents to depart with all or so much of the said share or part as that he shall not still retain a full thirty sixth part or share of the moiety of the benefit or profit of the said work, then and so often it shall and may be lawful

to and for the said Governor and Company to remove such a person from being of the said Company, and to elect such person or persons to whom such share or part shall be transferred or some other person or persons to whom a thirty sixth part [as aforesaid] shall appertain into the room or place of him that is or shall be removed, And also that, upon death or avoidance of the place of any of the said Company, that then such heir or person unto whom the inheritance of such part portion or share shall come or some other person or persons being lawfully entituled to a full thirty six part of the benefit of the said work shall be by the said [Company &c.] elected and taken into the said Company and be a member thereof in the room of him so deceasing or whose place shall be void : <sup>1</sup>

And further We do [hereby for Us etc.] straitly charge and command all person and persons whatsoever that they or any of them do not hereafter cast or put into the said New River any earth rubbish soil gravel stones dogs cats or any cattle carrion or any unwholesome or unclean thing in the said river, nor shall wash nor cleanse any clothes wool or other thing in the said river, nor hurt abate break pull down take or carry away any the houses pipes ponds banks or bridges <sup>2</sup> of or belonging to the said New River made or to be made or any part of them, nor shall do any act or thing that shall or may hinder let stop or annoy the said water or the current or passage thereof, nor shall make or convey any sink sewer ditch tanhouse dyeing-house or siege into the said River or to have any fall into the same :

And further that they or any of them do not hereafter presume to lay or place any pipe or pipes or make any device to draw or convey or otherwise to fetch or carry away turn or divert any the water out of the said River nor out of any pipe or quill <sup>3</sup> granted or to be granted to any person or persons by the said Company, without the licence and consent of the said [Company or its lawfully authorised officer] first had and obtained in writing, nor do hereafter make or dig any new ditch pond pit or trench near the said New River whereby the water of the same may fall or drain away, nor do hereafter plant or set any sallows willows or elm within five yards of the said River at the least, nor do any other nuisance or annoyance whatsoever to the said River, nor attempt or go about to bring to the said Cities of London and Westminster and to the Borough of Southwark or to either of them any other

<sup>1</sup> With this placing of membership upon a share-holding basis, cf. the provisions, *ante*, pp. xlix. 10-11.

<sup>2</sup> Statute (3 Jac. I. c. 18) directed the undertakers to erect the necessary bridges for the public to cross the water.

<sup>3</sup> 'A small pipe or tube: *esp.* a small water-pipe,' *N.E.D.*, s.v. 'Quill'; cf. *ante*, p. cxxiii. For private 'quills of water,' see Clifford, *Private Bill Legislation*, II. pp. 59-61.



river or pipe for conveying or bringing of water from any place whatsoever without the licence and assent of the said [Company], upon pain that every person and persons offending in all or any of the premises shall incur our high displeasure and such pains penalties and punishments as by the laws or statutes of this our Realm of England or by our prerogative royal can or may be inflicted or imposed upon such offenders as breakers and contemnors of our Royal Commandment given for the preservation and continuance of this so great and necessary a work tending so much to the public good of our said City of London :

And further We will and ordain by these presents for Us our heirs and successors that such person and persons as We our heirs and successors shall hereafter name and appoint to take and receive to our use of and from the said [Company] such sums of money and profits as shall accrue and belong to Us our heirs and successors for or by means of the said water work, shall have full power and authority and him and them We do hereby authorise upon receipt of the same monies and profits to take and deliver to the said [Company] acquittances and releases in writing under his or their hand and seal of and for the same monies and profits so received as aforesaid, Which said acquittances and releases We will shall be from time to time good and sufficient exonerations and discharges to and for the said [Company] against Us our heirs and successors of and for the same monies and profits so paid as aforesaid without other or further warrant to be had or obtained from Us our heirs and successors in that behalf :

[And further] that these our Letters Patents or the enrolment of them and all and every thing and things in the same contained shall be in and by all things firm strong effectual and available in the law against Us our heirs and successors as well in all our Courts as elsewhere soever, Notwithstanding the not reciting or misreciting of the foresaid Acts of Parliament or of the foresaid Acts of Common Council or of the said Indentures [above mentioned] or misreciting of the dates or times of them or any of them, [and notwithstanding mortmain statutes, or any other defect whatsoever] :

And further We do for Us our heirs and successors, in consideration of the long travail and attendance of our wellbeloved subject *William Lewyn*, gentleman, in and about the said waterworks, appoint name constitute and make him the said *William Lewyn* to be the first Clerk of the said Company for and during the natural life of the said *William Lewyn*, he behaving himself well and honestly, [after his death the Company, or a quorum of seven, may elect a clerk to hold office during their pleasure, such clerk to take oath etc.] :

Although express mention of the true yearly value or certainty

[etc.] or any statute Act ordinance provision proclamation or restraint heretofore had made [etc., be not made] :

In witness whereof We have caused these our Letters to be made Patents, witness ourself at Westminster the xxith day of June in the xviith year of our Reign of England France and Ireland and of Scotland the two and fiftieth

*per breue de priuato sigillo.*<sup>1</sup>

## LONDON STARCHMAKERS <sup>2</sup>

(Patent Rolls, 20 Jac. I. pt. x.)

JAMES, *by the Grace of God King of England Scotland France and Ireland Defender of the Faith &c.*, To all to whom these presents shall come, Greeting :

*Whereas* upon divers complaints heretofore made it hath sufficiently appeared to Us and to our Privy Council that sundry great abuses have been committed and done and much inconvenience hath happened and grown as well to the common weal of this our Realm as offence and damage to our loving subjects by the excessive disorderly and inordinate making of starch in many places of this our Realm, by converting and consuming of great quantities of wheat and other corn fit for man's food and sustenance into starch, and also by the noisome

<sup>1</sup> The original charter is attested 'Yonge et Pye,' and indorsed as follows :—

'Inrolled on the Patent Roll amongst the Patents of the seventeenth year of the Reign of King James pursuant to an Order made for that purpose by the Right Honourable the Master of the Rolls dated 28th March 1737. Rooke.'

'Examined in the Chapel of the Rolls with Mr. William Rooke and compared with the record consisting of eleven membranes this twenty first day of April 1737. Jasper Bull, Clerk of Company within mentioned.'

A Petition endorsed upon the Patent Rolls briefly recites the Company's charter and constitution and adds :—'That your Petitioners have lately discovered that by some omission or neglect the said Letters Patents and Charter so granted as aforesaid

were never to this time recorded or enrolled; your Petitioners therefore, to prevent any damage that by any accident may attend the loss of the said Letters Patents upon which the properties of many persons depend, and the inconveniences that by any such loss may ensue to the Inhabitants of London Westminster and other places who are supplied with water in their houses from the said New River, humbly pray' that enrolment may be forthwith made. To these words are affixed the order 'Be it so. J. Jekyll.' Cf. enrolment in 1829 of the Hon. Artillery Co.'s grant (*ante*, p. 17 (1)).

<sup>2</sup> The starchmakers (the grantees not being particularly named) had been incorporated fifteen years earlier under a charter in some respects similar (see Introduction, *ante*, pp. lxix-lxx).



and offensive savours and dangerous and contagious stench arising by the making thereof in sundry places unfit for the purpose,

For reformation whereof We have heretofore by several Proclamations<sup>1</sup> published by Us not only signified to all our loving subjects that our will and pleasure was to have all such inconveniences and annoyances growing by the making of starch to be taken away and removed but did thereby also straightly charge and command that no person or persons whatsoever other than such as thereunto by Us our heirs or successors or by the Commissioners of Us our heirs and successors in that behalf should be licensed authorised or appointed, and that in such places only as should by such warrant or authority be assigned or allowed,<sup>2</sup> should at any time or times thereafter directly or indirectly presume attempt or go about to make any starch at all, And that no person or persons to be licensed authorised or appointed to make starch should presume to make starch of wheat meal flour or any other stuff whatsoever fit for the food or sustenance of man,<sup>3</sup> And further by our Commission under our Great Seal of England We did authorise and appoint certain persons of good quality and credit to see to the reformation of the said inconveniences, and to nominate and appoint such as they should think fit for the making of starch and also to provide for the orderly making thereof in such places only as should be fit and convenient,<sup>4</sup>

*And whereas* We are informed that notwithstanding all the providence and care used by Us for the prevention of these inconveniences very great abuses are daily committed and continued in making of starch both in unfit and offensive places and of such stuff as hath been by Us prohibited for that use,

*And whereas* We have been moved by the humble Petition of divers of our loving subjects using the art or trade of starchmakers inhabiting near unto our City of London that We would vouchsafe to incorporate them into a body politic to have a perpetual succession and thereby to enable them with authority and power by the benefit of good laws and ordinances to govern themselves and all others using that trade, whereupon they have humbly offered to become answerable unto Us for the due reformation of all the former abuses which for many years We have much laboured to suppress,

<sup>1</sup> Proclamations were issued against starchmaking on July 5th, 1608, and August 22nd, 1610, and also on May 5th, 1620. On May 16th, 1622, three days after the signing of this charter, a further Proclamation explained the position.

<sup>2</sup> See Proclamation, *S.P.D.*, Jac. I. xxviii. 35, appointing Commissioners in 1607.

<sup>3</sup> Similar language in Elizabethan grants (see *ante*, p. lxiv (6)) did not, according to Mr. Price, deter the patentees themselves from making starch of wheat (see *English Patents of Monopoly*, pp. 15-16).

<sup>4</sup> See *Patent Rolls*, 18 Jac. I. pt. iii (Freeman).

*And whereas* also they have made further offer unto Us that if, for their better encouragement to make and stablish the said art and trade of making of starch to become in short time a native and home trade within this our Realm, We should be pleased by imposing and laying a duty or payment of ten shillings on the hundred weight of all foreign starch to be hereafter imported into this Realm to discourage the importation thereof from the parts beyond the seas, they would farm that duty or imposition of Us for a convenient number of years at such a yearly rent as should fully answer and recompense the loss We should sustain in our customs and other duties in former times paid and accounted for unto our use for starch imported into this our Realm,

In consideration of all which premises We, much affecting the due reformation of the inconveniences and abuses aforesaid especially of the waste and consumption of wheat and other grain fit for the food and sustenance of man now commonly employed and converted to the making of starch, and the better to redress the said annoyances arising and happening to our selves and many of our subjects by the making thereof in great quantities in places unfitly situate for that purpose, and having had experience that there is no way or means more probable to effect this reformation intended than by good order and government of the said trade as well in the matter whereof starch shall be made as in fitting places to be chosen for the exercise of the said trade, especially when it proceedeth from the free and voluntary desires of the persons to be reformed, are well pleased out of our grace and favour to our subjects the petitioners herein to yield unto their humble Petition and by our royal power and authority to incorporate them into one body politic and corporate to have a perpetual continuance and succession for ever,

*Know ye therefore that We of our especial grace certain knowledge and mere motion* have willed ordained constituted and granted and by these presents for Us our heirs and successors do will ordain constitute and grant that our wellbeloved subjects *Jacob Meade, Arthur Collyns, Ambrose Cowper, Michaell Frauncis, John Dover, John Webb, Samuel Symonds, William Stubbes, James Dansie, John Bailly, Thomas Peterson, Richard Rose, John Jago, Peter de Calawee, Thomas Duffeilde, Edward Gouldingham, Philippe Siche, Thomas Wilson, John Osborne and George Scotson*, now using and exercising the trade of making of starch in or near unto our City of London, and all other persons which now or hereafter shall use or exercise the trade of making of starch in our City of London or in any other city borough town or place in this our Realm of England our Dominion of Wales and town of Barwick, being thereunto first accepted admitted and made free of the said Corporation hereafter named, shall be from henceforth for ever one



body corporate and politic by themselves in deed fact and name by the name of **Master Wardens Assistants and Commonalty of the Art or Mystery of Starchmakers of the City of London :**

And them by [that name We fully incorporate &c., with perpetual succession and power] to have purchase and receive manors messuages lands tenements liberties privileges jurisdictions franchises and hereditaments whatsoever of what nature [soever], in fee and perpetuity or [for term of years or lives] or any other ways whatsoever, and also all goods [and other things whatsoever, and to give grant and dispose of the same ; power to plead and be impleaded, and have a common seal ;] [One Warden to be chosen Master, two Assistants to be chosen Wardens, and nine of the Commonalty to be chosen Assistants ; power to assemble and make laws &c.] for the good rule and government of the said [Corporation] aforesaid for the time being and of all persons whatsoever using and exercising or that shall use or exercise the said art or mystery as aforesaid within the said City of London or the suburbs of the same or elsewhere in any other cities boroughs towns or places whatsoever within any part of this our Realm of England Dominion of Wales and Town of Barwick, And for the raising of a convenient sum of money upon every hundred weight of starch to be made as aforesaid towards the discharge and satisfying of the rent payable by the said Corporation to Us our heirs and successors hereafter in these presents mentioned, and other charges incident to the said Corporation, And for declaration in what manner and order the same Master Wardens and Assistants and Commonalty and all and singular person and persons using or exercising the said trade as aforesaid shall behave bear and demean themselves in their office art or mystery, And for the reformation and preventing of the said former abuses and inconveniences, And for the more public good and common profit of the said [Corporation], And for all other things and matters whatsoever touching or in any wise concerning the art or mystery aforesaid ; [Power to provide penalties &c., and levy fines &c. for breach of laws] :

[First officers nominated :—Master, *Jacob Meade* ; Wardens, *Arthur Collyns* and *Ambrose Cowper* ; Assistants, *Michael Frauncis*, *John Dover*, *John Webb*, *Samuel Simonds*, *William Stubbes*, *James Dansie*, *John Baily*, *Thomas Peterson* and *Richard Rose*] : <sup>1</sup>

[Provision for officers' oaths ; power to fill vacancies] :

And further We will and by these presents for Us our heirs and successors do grant to the said [Corporation] and to their successors

<sup>1</sup> The officers appointed under the earlier charter (see above, p. lxix) were *Daniell Balgaye*, Master : *Thomas Stapley* and *Christopher Haliley*, Wardens : *John*

*Quarles*, *Anthonie Whithering*, *Richard Collines*, *Thomas Incent*, *William Dalby* and *Robert Fann*, Assistants.

for ever that the said Master Wardens and Assistants and their successors shall for ever hereafter be authorised by themselves or by their sufficient deputies with the assistance of a constable or other lawful officer to search for and oversee in all fit and convenient manner in all places [in England &c. as aforesaid] where any starch shall be made to be put to sale, all such starch as shall be so made as also all other starch whatsoever to be brought or transported from any the parts beyond the seas into this Realm [&c.] to be sold and put to sale by any person or persons whatsoever, to see that the same be well and sufficiently made dried barrellled and well conditioned and without any bad or corrupt stuff mingled with or amongst the same : <sup>1</sup>

[Power to choose one or more Clerks, and one Beadle ; to change such officers and elect afresh, administer oath &c.] :

[Power to purchase one house for their hall for assembling,] and also any other manors messuages lands [&c. not exceeding twenty pounds clear yearly value, mortmain statutes notwithstanding ; power to our subjects to grant the same] :

*Provided always* that whereas by an Indenture bearing date with these presents <sup>2</sup> made between Us of the one part and the said [Corporation] of the other part the said [Corporation] have covenanted to pay to Us our heirs and successors a yearly rent or sum of lawful money of England at the receipt of our Exchequer at Westminster for and in respect of the said duty or imposition upon the hundred weight imposed upon all foreign starch to be hereafter imported into this our Realm of England and Dominion of Wales which in and by the said Indenture We have demised unto them, If therefore the said [Corporation] shall fail and make default of payment of the said yearly rent or sum by the year contrary to the true intent and meaning of the said recited Indenture, That then upon certificate thereof made unto Us by the Auditor of the Receipt of our Exchequer at Westminster for the time being and upon declaration of our will and pleasure touching the same under our Privy Seal, the present grant of incorporation and all privileges [&c. therein contained shall be void] :

<sup>1</sup> The earlier charter provided further for the seizure and forfeiture of bad starch, for entry into workhouses, warehouses, shops, cellars, &c., and for destruction of starch made of wheat or made in unauthorised places.

<sup>2</sup> The Indenture, which follows the Charter in the Patent Rolls, provides for a ten years' demise at no rent for the first year, £2000 rent for each of the second and third years, and £3000 in the following

years until the tenth, when it is to be £4000. The Corporation undertake to sell good starch at reasonable rates, not exceeding thirty shillings per cwt. of 112 lb., so as to permit retail at prices up to fourpence a pound, giving a small profit. The Starchmakers' first Charter contained a proviso to the same effect. An overseer on behalf of the Crown is to have £100 salary. Provision is made for limiting personal liability (see *ante*, p. xviii (1) ).



*Provided also* and our will and pleasure is that if, upon any complaint made by any of our loving subjects after ten years to be accounted from the date of these presents unto the Lords and others of our Privy Council, it shall appear upon mature deliberation thereof had that this our present grant may prove inconvenient and prejudicial unto Us our heirs and successors or unto our loving subjects whose welfare We so principally tender, and that they or any six or more of them shall thereof make certificate unto Us our heirs or successors declaring their advice concerning disannulling the same, That then upon such certificate made and upon declaration of the will and pleasure of Us our heirs and successors under our Privy Seal accordingly this present grant and all the powers [&c.] therein contained shall be void frustrate and of none effect to all purposes [as aforesaid], These presents or anything therein contained to the contrary thereof in any wise notwithstanding :

Although express mention &c.

In witness whereof &c. witness our self at Westminster the xiiiith day of May

*per breue de priuato sigillo.*

## LONDON GOLDWIREDRAWERS <sup>1</sup>

(Patent Rolls, 21 Jac. I. pt. ii.)

JAMES *by the Grace of God King of England Scotland France and Ireland, Defender of the Faith &c.*, To all to whom these presents shall come, Greeting :

*Whereas* We heretofore taking into our consideration the scarcity of money and coin of late years grown within the Realm occasioned partly by the transportation thereof out of this kingdom and partly by the unlawful consumption thereof within the land,

And, for that the making of gold and silver thread was found to be a great waste and consumption of coin and bullion of the Realm, We did by our Proclamation bearing date the eleventh day of June in the twentieth year of our reign of England France and Ireland <sup>2</sup> (amongst other things) prohibit and forbid all making of gold and silver thread of what kind soever or by whatsoever name it was called within our

<sup>1</sup> See Introduction, *ante*, pp. lxx-lxxi.

<sup>2</sup> His Majesty therein, 'notwithstanding some remarkable examples of justice in his High Court of Star-Chamber against

some principal offenders in this kind,' finds it necessary to repeat his restraint of the export, &c., of coin, bullion, &c.

Realm, And did thereby straitly charge and command that no person or persons whatsoever from the Feast of St. Michael the Archangel then next ensuing the date of the said Proclamation should presume to buy or put to sale any gold or silver thread made within any of our Dominions upon pain to incur the uttermost severity of the censure and punishment therein mentioned,

Nevertheless it is now found by experience that it will be very difficult and is almost impossible to suppress the making of gold and silver thread within this Kingdom, for that great numbers of our subjects which have employed themselves in the said manufactures, being poor and having no other means to live, will not give over to work underhand, notwithstanding our said Proclamation and the penalties therein,

Now forasmuch as We, in prosecution of our former purpose, intending the prevention of the general abuse and prejudice done to the common wealth rather than the punishment of so many offenders, and being informed by the Petition of many of the persons herein named that such course and care may be had and taken in the resettling of the said manufacture again within the Kingdom as that, by importation of so much foreign coin and bullion to be coined within our Mint in the Tower of London as shall be expended in the manufactures, the general prejudice in consumption of gold and silver will be taken away, and by good oversight of the workmen and managing of the works the subject shall be in no wise deceived in the manufacture nor exacted upon in the price thereof,

And thereupon by their said Petition they have desired that they may be incorporated into a fellowship and body politic and to have perpetual continuance, and have voluntarily offered unto Us (amongst other propositions of theirs for the well ordering and settling the said manufactures without inconvenience) after the end of six months first allowed them for their provision and store to bring and import from foreign parts to be converted and coined into the current coin of this Kingdom so much foreign gold and silver coin and bullion as shall countervail the bullion which they shall use in the exercise of the said manufactures, and to pay unto Us our heirs and successors six pence upon every ounce of gold and silver wire which they shall use in and about the said manufactures in respect of such loss as We shall receive in our customs by reason of the said manufactures, and also four pence for the seal of every mark or pound of gold or silver thread (being made up and perfected),

Which their offers and desires, being by our royal command and direction considered of by the Lords and others of our Privy Council, were by the said Lords conceived to be reasonable and a fit remedy for



prevention of the former abuses which were likewise conceived to arise out of the promiscuous and disorderly practice of working the said manufacture,

And it hath likewise been conceived by the said Lords and others of our Privy Council that the reducing of the trades of gold and silver wire-drawers and gold and silver beaters for making of foliate<sup>1</sup> into the like order and government will be a great means also to avoid the consumption of coin and bullion and the inconveniences thereby arising,

*Know ye therefore that We*, desiring nothing more than the advancement of the public weal of our Realms, and tendering the relief and supportation of such as are expert in the knowledge and exercise of the said manufactures, and to suppress the growing numbers of unconfirmed persons that abuse the said manufactures and to settle the same in a constant course in such manner as that those which shall use the same shall be restrained and limited to such directions as may best tend to the orderly and good proceedings therein without any public prejudice or grievance, *of our especial grace certain knowledge and mere motion* have willed ordained constituted granted and declared, and by these presents for Us our heirs and successors by and with the advice of the said Lords and others of our Privy Council do will ordain constitute grant and declare, that our wellbeloved subjects *Mathias Fowle, Anthony Hardinge, Symon Owen, John Wollaston, Robert Jenner, Thomas Williams, Frauncis Kinge, William Symonds, Hugh Underhill, John Eaton, Thomas Lee, Anihony Peniston, Joseph Symonds, George Binge, John Ball, John Rundell, Christofer Goodlacke, Adolphus Fowle, John Linge, Hughe Cressy, William Leadsham, John Lee, Thomas Jackson, Alphonsus Fowle, Nicholas Fawcett, Hugh Longworth, Anthony Ellingham, Robert Patrickson, Edward Rundell, Thomas Rundell, Thomas Shancke, William Clarke, William Bignell, Nicholas Hunnyburne, Robert Wood, Cuthbert Crooke, Richard Day, Lawrence Whaley, Mathewe Nut on, Walter Floud, Widdowe Trouill, Will'am Gibbs, Richard Moore, William Eaton, John Reynolds, Frauncis Garroway, William Cluffe, Frauncis Deane, John Fells, William Greene, Humfrey Ballard, Arthur Trobridge, Thomas Heaton, John Marson, Frauncis Whitfield, Jacob Chelton, Will'am Wheeler, William Osmund, William Lord, Robert Mullins, Christofer Kinge, Robert Hembury, George Norfolk, Walter Partridge, Robert Braintley, Richard Ringe, William Weston, William Harris, Thomas Hiller, Nicholas Maior, John Warner, Frauncis Phipps, Richard Edmunds, John Wootten, Frauncis Burdett, Thomas Robinson and Edmund Jeffrey*, and such others as hereafter shall be admitted into

<sup>1</sup> Foliate ('folliatt' in Patent Rolls): Foliate gold = leaf-gold.' *N.E.D.* See 'beaten out into a thin sheet or foil. *ante*, p. lxxi (2).

the freedom of the said mystery or trade in manner and form hereafter expressed, and their successors, shall be from henceforth for ever one fellowship and one body corporate and politic in deed and in name, to have continuance for ever by the name of **Governor Assistants and Commonalty of Goldwiredrawers of the City of London** :

And them by the name [as aforesaid] one body politic and corporate to have continuance for ever We do really and fully for Us our heirs and successors ordain make erect create constitute and incorporate by these presents, [with perpetual succession and capacity in law to have take purchase hold &c., manors lands tenements &c., and goods chattels and other things whatsoever, and the same to demise grant let &c.]; and to make seal and accomplish all deeds evidences and writings as fully and amply as any other corporation or body politic can or may do :

[Power to plead and be impleaded &c., and have a common seal] :

[Constitution :—one Governor and twenty-two Assistants, to be chosen as hereinafter expressed] :

And We do by these presents give and grant to the said [Company] that it shall and may be lawful to and for every person and persons which is or shall be free of the said Company and for his and their workmen servants apprentices and journeymen and such others as they or any of them shall employ forever hereafter, and for no other person or persons whatsoever, to practise use and exercise in any place or places within this our Realm of England and the Dominion of Wales the trades mysteries or manufactures of making gold and silver thread and of the beating and working of gold and silver for the making of gold and silver foliate and of the making and working of gold and silver purls<sup>1</sup> plates<sup>2</sup> oes<sup>3</sup> and spangles and drawing of wire for those uses or for damasking inlaying wire for cloth of gold and silver and such like and of all things belonging to the art of a gold and silver wire-drawer and of preparing fining and disgrossing<sup>4</sup> of gold and silver for the uses aforesaid :

And likewise to make erect and set up or cause to be made erected and set up in any place or places whatsoever within the City of London and the liberties thereof and within three miles of the said City and not elsewhere for all or any the purposes aforesaid all such frames devices

<sup>1</sup> Purl is 'thread or cord made of twisted gold or silver wire used for bordering and embroidery.' *N.E.D.*

<sup>2</sup> 'Flat gold wire is known by the name of "plate," and various twisted threads by the name of "purl."' Day and Buckle, *Art Needlework*, cited in *N.E.D.*, s.v. 'purl.'

<sup>3</sup> 'Small circular spangles used to ornament dress in the seventeenth century.' *N.E.D.*, s.v. 'o.'

<sup>4</sup> Disgross: 'to make finer or less gross; *spec.* applied to the initial reduction in thickness of metal bars that are to be made into wire.' *N.E.D.*



engines instruments mills tools and materials whatsoever as they or any of them shall think fit :

And likewise to vent utter and sell or put to sale unto any person or persons whatsoever within our said Realm of England and Dominion of Wales all such gold or silver thread wire spangles oes purls or other things of that nature as they or any of them shall lawfully make or cause to be made by force and virtue of these our Letters Patents, The Statute made in the fourth year of the reign of our noble Progenitor the late King HENRY THE SEVENTH<sup>1</sup> or our former Proclamation<sup>2</sup> or any of them or any statute act order ordinance proclamation proviso restraint inhibition or other thing whatsoever to the contrary thereof in any wise notwithstanding :

[*Mathias Fowle* to be the first Governor] from henceforth for the term of his natural life, if in the meantime he do not resign give up or leave the said office or otherwise misdemean himself in the said place that there shall be just cause to remove him, whom We will shall be removable at the pleasure of six or more of the Lords of the Privy Council of Us our heirs or successors :

Nevertheless our will and pleasure is, and We do hereby ordain constitute and appoint, that the said *Mathias Fowle* before he enter into the execution of the said office shall enter into such bonds and take such corporal oath as is hereafter in these presents declared :

[Twenty-two persons above-named<sup>3</sup> to be Assistants, to serve for life unless resigning or removed for some reasonable cause], They the said two and twenty Assistants first entering into such bonds and taking such corporal oaths as is hereafter in these presents expressed :

And so forever after the Governor and Assistants [upon election shall enter into like bonds and take like several oaths] :

[Provision for election of successor to *Mathias Fowle*, and of Assistants as required ; annual election by majority on St. Michael's Day ; bonds to be entered into and oaths taken] :

And We further will and by these presents for Us our heirs and successors do grant unto the said [Company] that they and their successors may take and admit into and make freemen of the said Company all and every such person and persons being natural born subjects of this Realm as now use or exercise any the trades or mysteries aforesaid, and shall admit into and make free of the said Company all

<sup>1</sup> 4 Hen. VII. c. 2, regulating the alloying of gold and silver, and the melting, selling, and marking of the same.

<sup>2</sup> A Proclamation of 11th June, 1623,

repeats the statute.

<sup>3</sup> *Ante*, p. 124 : *Anthony Harding* to *Thomas Jackson* inclusive.

such as having served or hereafter shall have served seven years at the least as apprentices unto any the said trades or mysteries and being fit and able to use and exercise the same and shall require to be admitted thereto and shall and will enter into such bonds and make such oath as hereafter in these presents is expressed :

And further that they and their successors shall and may forever hereafter have one honest and discreet person in manner and form hereafter in these presents expressed to be chosen and named, which shall be and shall be called Clerk of the said Company :

And We have assigned [&c.] our wellbeloved subject *Edmund Jeffrey* to be the first and present Clerk of the said Company to continue in the said office during his natural life, he behaving himself well and truly towards the said Company, To use and exercise the same by himself or his sufficient deputy such as the said Governor and Assistants for the time being or any twelve or more of them, whereof the Governor to be one, shall allow and approve of ; [provision after his death for a majority to choose his successor, to hold office] during the good will and pleasure of the Governor and Assistants of the said Company for the time being or the greater part of them, whereof the said Governor to be one ; [the Clerk first to take oath for true execution of his duties ; power to administer the oath] :

[Power for the Governor and Assistants (or ten or more of them)] when and as often as it shall seem needful and convenient to assemble convocate and congregate themselves together at or in their house or hall aforesaid, and there from time to time and at all times convenient hereafter to treat and consult [&c. ordain statutes &c. for good order of the Company its officers and members &c. or any using the said manufactures in England and Wales, and all other matters, and to ordain punishments &c. by fine or imprisonment for breach thereof, with provision for levying fines] :

[All which laws &c. We will to be observed &c.] and obeyed, so as the same laws statutes articles and ordinances or any of them be not repugnant or contrary to the laws and statutes of this our Realm of England nor be repugnant or contrary to such oaths or the condition of such obligation as the said Governor or Assistants of the said Company or any other of the said Company for the time being are severally and respectively to make and enter into in such sort as is herein expressed, And so as the said laws statutes articles and ordinances be engrossed on parchment and subscribed by the Lord Treasurer and Chancellor of the Court of Exchequer of Us our heirs and successors for the time being or one of them :<sup>1</sup>

Cf. the statute, 19 Hen. VII. c. 7 (*ante*, p. xcix).



[Power to elect one or more Beadles, who must take oath for the faithful execution of their office]:

And our further will and pleasure is, and We do hereby for Us our heirs and successors grant, that the same officer or officers so to be named shall and may from time to time by warrant in writing under the common seal of the said [Company] have full power and lawful authority by these presents not only to ask take receive or by distress or other lawful way or means to levy and gather all manner of fines pains penalties and sums of money to be lawfully set imposed and forfeited according to the true intent and meaning of these presents of all and every person and persons which ought to pay or answer the same, but also to execute and perform all and singular other the lawful warrants and commandments of the said Governor and Assistants and every of them to be given unto the said Beadle or Beadles according to the true intent of these presents :

[Justices Mayors Sheriffs Bailiffs Constables and other our officers in England and Wales to be helping aiding &c.] :

And for the better performance and execution of our grant intent and meaning for the benefit and good of the said [Company] We do hereby for Us our heirs and successors will and ordain and do also straitly charge and command that no person or persons whatsoever either our natural born subjects denizens or strangers, not being members of the said Company or such as they shall set on work, shall at any time hereafter in any place or places within our said Realm of England or Dominion of Wales practise use or exercise the making of gold or silver thread or beating or working of gold and silver for the making of gold and silver foliate or of making and working of gold or silver wire for oes plates spangles purl damasking inlaying wire wire of cloth of gold or cloth of silver or of any wire for the said purposes or any of them or of any other work of that or the like nature which by the true intent of these presents doth or should appertain to the said Company, or the preparing fining disgrossing of any gold or silver to or for any the uses or purposes aforesaid, nor shall by any ways or means practise or put in use any the said trades mysteries or manufactures thereby privileged, nor shall frame erect mend set up or use any tool engine instrument device or material whatsoever for the drawing making working parting or fining of all or any part of the said premises or for any other the uses or purposes aforesaid, nor shall utter sell deliver or put forth to sale to any person or persons whomsoever any gold or silver thread wire [&c. as aforesaid] which either hath been made or hereafter shall be made within our said Realm of England or Dominion of Wales by any other person or persons other than by such person or persons as shall be of the said Company

or his or their apprentices journeymen servants or such as they or any of them shall employ in or about any of the premises :

And that no person or persons whatsoever shall bring or cause to be brought from any the parts beyond the seas into our said Realm or Dominion or either of them or into any ports havens creeks or places of them or either of them any gold or silver thread wire [&c.] or other works of that nature that shall be base or counterfeit or of less fineness than according to the standard, upon pain of the loss and forfeiture of all such gold and silver or counterfeit or base gold or silver thread wire [&c.] and of all such tools engines instruments devices and materials whatsoever as shall be respectively made wrought prepared drawn parted melted disgrossed fined imported or brought in put forth to sale framed erected mended set up or used contrary to the tenor and true meaning of these presents, and upon pain of our high displeasure and of censure in our High Court of Starchamber and of such further punishment by imprisonment and otherwise as shall or may by our laws or prerogative royal be inflicted upon them for their offence and contempt of this our royal pleasure and commandment, the one moiety of all such forfeitures to be levied and taken for Us our heirs and successors, and the other moiety thereof to be unto such person or persons as shall first seize or sue for the same from time to time :

And, for the better avoiding and prevention of all deceits and falsities that shall or may be practised in the said trades mysteries and manufactures, We do hereby for Us our heirs and successors will appoint grant and ordain that all manner of gold or silver that shall hereafter be used in or about the said manufactures or any other the purposes aforesaid shall first be brought into the Tower of London if convenient room or place may be there had, or in default of such convenient place within the Tower then the same to be brought into the Hall of the said Company within London and not to any other place or places, wherein the same gold and silver so brought shall be prepared and made fit to be sold for the making working or drawing of gold and silver wire to and for the uses and purposes aforesaid :

And that the same shall be prepared and made according to the fineness of the standard of His Majesty's coin with allowance of two pennyweight for remedy :

And that the Master Warden and Comptroller of the Mint of Us our heirs and successors for the time being, whom We do hereby for Us our heirs and successors appoint charge and authorise to be careful in that behalf, shall from time to time take an exact and true account and keep a true and just register in writing as well of all such gold and silver and other parcel thereof as shall be so brought and prepared



and delivered out to and for the uses and purposes aforesaid, as also of all such bullion gold or silver as shall from time to time be brought into the Tower of London by the said [Company] from foreign parts and which shall be there converted into the current coin of this Kingdom, To the end that it may justly appear whether the said [Company] shall according to their said offer made unto the said Lords and others of our Council bring in and convert into our current coin so much bullion from foreign parts as shall be expended in or about the said mysteries trades or manufactures or any of them :

And further We do hereby for Us our heirs and successors ordain and appoint that the Assay-master of the said Mint for the time being or the Assay-master of the Goldsmiths of the City of London for the time being, whom We do by these presents for Us our heirs and successors appoint charge and authorise to be careful and diligent in that behalf, shall from time to time as occasion shall require make and keep an assay of the true fineness and goodness of all such gold and silver so to be prepared and wrought in the said Tower or in the Hall of the said Company and from thence to be delivered out again to and for any the uses aforesaid :

And if, upon search and view of any of the said gold and silver that shall be so wrought in the said Tower or in the Hall as aforesaid and be there prepared and fitted to and for the uses aforesaid or any of them, the same or any part thereof shall be found to be base or baser than it ought to be, That then such person or persons as shall so bring prepare or fit the same shall forfeit unto Us our heirs and successors one third part thereof, the same third part to be seized taken and kept to the use of Us our heirs and successors by the said Assay-master for the time being, and shall further be punished by censure in the said Court of Starchamber or by fine imprisonment or otherwise according to the statutes acts ordinances and orders which the said [Company] shall from time to time provide and make in that behalf :

And further our will and pleasure is, And We do by these presents for Us our heirs and successors constitute and appoint, and do likewise strictly charge and command the said *Mathias Fowle* from time to time so long as he shall be Governor of the said Company and after him the Governor of the said Company for the time being, to survey and oversee the workmanship of the said gold and silver wrought and unwrought that it may be workmanlike performed and that provision of bullion be made and brought in *bonâ fide* from foreign parts which shall be from time to time used by the said Governor and Company or any of them, and that the silver may be afforded at reasonable rates by such as do serve the said Company for the said manufactures :

And for the better execution of all and singular the grants and

ordinances aforesaid our will and pleasure is, and We do by these presents for Us our heirs and successors give and grant to the said [Company &c.], that it shall and may be lawful to and for the said Governor Assistants and Commonalty and their successors or any two or more of them for the time being or any other person or persons by the [Company or a majority] under the common seal of the said Company to be named assigned and deputed in that behalf, within our City of London and in all and every other place and places whatsoever as well within liberties as without in the said Realm of England or Dominion of Wales together with the aid of a Constable or some other lawful officer, to enter into any house shop cellar warehouse or other place or places whatsoever and to go aboard any ship or vessel, there to search seek for find out and take assay as well of all such base or counterfeit stuff as shall be so imported or brought into this Realm or the Dominion of Wales to be uttered sold or put forth to sale as aforesaid or otherwise which shall be made or wrought within the said Realm of England or Dominion of Wales by any person or persons whomsoever as well such as are or shall be free of the said Company as others :

And likewise to search for seek find out and take an assay as aforesaid of all such gold and silver thread oes spangles purls wire or other thing whatsoever of the like nature of what fineness soever the same be of, which shall be made or wrought within the said Realm [&c.] by any person or persons not being free of the said Company and allowed to work as is hereby prescribed and expressed contrary to the true intent and meaning of these presents :

And all the same being so found as well base or counterfeit stuff or otherwise to take seize and carry away and the same to detain and keep as forfeited to Us our heirs and successors :

And therefore We do hereby for Us our heirs and successors require and command as well the said *Mathias Fowle* as all others to whom the care of the premises shall belong from time to time to be diligent and careful in the execution of this our pleasure, and to give notice and information of all offences and offenders in any the premises unto the Attorney-General of Us our heirs and successors for the time being, to the end he may prosecute the said offenders in the Court of Star-chamber, there to be censured and punished according to their demerits, whom We do hereby require upon such notice and information to prosecute the said offenders accordingly :

[*Mathias Fowle* and subsequent Governors, before proceeding under this grant, to take corporal oath] upon the Holy Evangelist before the Master Warden and Comptroller of the said Mint within the Tower of London now and for the time being or any two of them, that is to say,



the said *Mathias Fowle* and the Governor of the said Company for the time being shall take a corporal oath to be administered to him and them in form or to the effect following, *You shall well and truly to the uttermost of your power execute the office of Governor of the Company of Goldwiredrawers during the time you shall continue Governor of the said Company in all things to the said office appertaining, You shall also be diligent and careful to oversee the workmanship of the gold and silver wrought and unwrought to be used by any of the said Company their servants or workmen that the workmanship thereof may be workmanlike performed, And take care (so far as in you lieth) that provision of bullion be duly made and brought in bonâ fide from foreign parts to the full quantity weight and value that shall be by the said Company or the members thereof employed in their manufactures or trades during the time you shall be Governor of the said Company, And that silver may be afforded at reasonable rates by such as do serve the said Company for their manufactures, And that you shall not melt fine use or buy or cause to be melted fined used or bought any gold or silver wire for all or any of the manufactures or other uses contained in the Charter made to the Corporation of Goldwiredrawers but that which you shall buy or cause to be bought for that intent in the Tower of London or at the Hall of the said Company and which shall be there prepared and fitted for those uses, And that you shall not utter or put to sale any gold or silver thread made or to be made within England or Wales before the same be marked with your own mark upon the quill<sup>1</sup> and before the same be sealed with such seal as for His Majesty his heirs and successors shall be appointed,<sup>2</sup> And that you shall well and truly to the uttermost of your power observe perform fulfil and keep in all points all such lawful reasonable and wholesome acts statutes laws and ordinances as are or shall from time to time be made by the Governor and Assistants of the said Company for the time being: So help you God: <sup>3</sup>*

[The Assistants to take a similar oath that they will execute their office, and that they shall not melt fine buy or use &c. gold and silver wire &c. as in the Governor's oath], *And shall from time to time give notice to the Governor of the said Company of all underhand workers and other irregular persons as shall work buy or sell any gold or silver wire or thread contrary to the true meaning of the Charter made to the said Corporation: So help you God: [power to administer these oaths]:*

<sup>1</sup> See *N.E.D.*, s.v. 'quill,' sb. 1b: 'a piece of reed or other hollow stem on which yarn is wound: hence a bobbin, spool, or pinn of any material.'

<sup>2</sup> Compare the power to seal imported gold and silver under the sixteen years'

grant to Pennell and Grimstone (*Patent Rolls*, 2 Jac. I. pt xi.). See Proclamation, Feb. 2nd, 1604.

<sup>3</sup> Cf. other oaths set out in charters, *post*, pp. 190, 199, 246.

[All other persons free of, or admitted to, the Company to take oath before the Governor in the presence of four or more Assistants, as follows], *Ye shall not melt fine buy or use* [&c. as in Governor's oath] : *Ye shall not utter or put to sale any gold or silver thread* [unless marked &c., as in Governor's oath] : *Ye shall well and truly fulfil* [&c. all statutes &c. as above ; and give notice of underhand workers &c. as in Assistants' oath] : *So help you God* : [Power to administer this oath] :

And our further will and pleasure is that the Governor and such of the Assistants for the time being as the Lord Treasurer of England and Chancellor of the Exchequer for the time being or one of them shall like of, shall from year to year yearly become jointly bound by bond unto Us our heirs and successors before the said [Treasurer and Chancellor] or one of them in such sum or penalty as they or one of them shall think fit, whom We do hereby for Us our heirs and successors authorise and appoint to receive the said bonds accordingly, for the due performance and observation of these things following, that is to say, that from and after the end of six months next ensuing the date of these presents there shall be by them or some or one of them yearly imported and brought into the said Tower of London from foreign parts and be converted into the current coin of this Kingdom so much bullion in value or more as shall be any ways expended by the said Governor Assistants and Commonalty and their successors or any of them in or about the said trades mysteries or manufactures or any of them or any other the uses aforesaid :

And that the present Governor and Assistants of the said Company and other the persons herein named to be of the said Company shall within the space of one month at the furthest next ensuing the date hereof, and all other persons hereafter from time to time to be Governor and Assistants of the said Company and all others hereafter to be admitted into the freedom of the said Company, at such time as they shall be admitted into the place or places of Governor or Assistants of the said Company or into the freedom of the said Company and from thenceforth yearly, shall enter into several bonds of one hundred pounds apiece unto Us our heirs and successors not to use or buy or cause to be used or bought any gold or silver wire for all or any of the said manufactures or any other the uses aforesaid but that which he or they shall buy or cause to be bought in the Tower of London or Hall of the said Company as aforesaid and which shall be there prepared made fit and assayed for that purpose as aforesaid and for which the sum of sixpence for every ounce of gold and silver wire and fourpence for the seal of every mark or pound of gold and silver thread shall be paid as hereinafter is mentioned, And likewise that he or they shall



not utter or put to sale unto any person or persons whatsoever any gold or silver thread made or to be made within our said Realm of England or Dominion of Wales before the same be sealed by such seal as by or for Us our heirs or successors shall for that purpose be appointed, the same several bonds of one hundred pounds apiece to be from time to time taken to the use of Us our heirs and successors by the Clerk of the said Company for the time being, whom We do hereby for Us our heirs and successors authorise and appoint to take and receive the said bonds accordingly, The said bonds to be safely kept in a chest with two locks and keys by the said Company, they delivering one of the same keys to be kept by such persons as shall keep the seal wherewith the gold and silver thread is to be sealed :

And We do hereby for Us our heirs and successors authorise and appoint the Governor of the said Company for the time being and such person as shall keep the seal aforesaid for the time being, to deliver up the said bonds yearly to be cancelled (upon the tender and sealing of new), the same having not been forfeited in the meantime :

[If any Governor or Assistant die or be displaced], the Governor for the time being and some other sufficient person or persons of the said Corporation shall enter and become bound in the stead of him or them so deceased together with the survivor of them which were in the last bond unto Us our heirs or successors before the [Lord Treasurer and Chancellor of the Exchequer, or one of them, in a bond similarly conditioned] :

And our further will and pleasure is that if the said Governor Assistants and Commonalty or any of them shall yearly seal and tender such new bonds with like penalties and conditions respectively in manner and form aforesaid, that then they shall have their former bonds delivered up to them to be cancelled (so as the same have not been forfeited to Us in the mean time), and then and in such case the said bonds only as have been so forfeited shall be retained and stand in force and the residue shall be void and delivered up upon tender of new as aforesaid ; [the Lord Treasurer and Chancellor, or one of them, hereby authorised to take new and deliver up old bonds] :

And for the better reformation of the abuses now and heretofore practised in the said trades mysteries and manufactures, and to limit and restrain the said [Company &c.] in such sort as that they or any of them shall not at any time hereafter utter vent and sell or put to sale any gold or silver thread other than such as shall be warrantable according to the true meaning of these presents, And for the better information from time to time of Us our heirs and successors how much gold or silver thread is or shall be vented uttered and sold yearly within this

our Kingdom of England and Dominion of Wales, to the end that thereby it may the better appear what bullion shall yearly be expended for that use, We do therefore declare our royal will and pleasure to be and do hereby for Us our heirs and successors straitly charge require appoint and command the said [Company &c. that they do not utter &c. any gold or silver thread before it be sealed as aforesaid], and that for and in respect of the sealing of every mark or pound of gold thread or silver thread so to be sealed as aforesaid the owner thereof shall forthwith pay unto such person for the time being as shall be appointed to have the custody of the said seal unto the use of Us our heirs and successors the sum of four pence of lawful money of England, and shall further pay unto the same person unto the use of Us our heirs and successors for every ounce of gold or silver wire that shall be prepared fitted made drawn and used in or for any the uses or purposes aforesaid the sum of sixpence of like lawful money as a composition agreed on between Us and the persons aforementioned in the behalf of the said [Company &c.] for ever for and in respect of such loss of our Customs and subsidies as We our heirs and successors shall or may sustain by reason of the said manufactures, The which several sums of [fourpence and sixpence aforesaid] the said [Company] do covenant promise and grant for them and their successors well and truly to satisfy and pay accordingly :

And We do hereby for Us our heirs and successors will and require the Lord Treasurer of England Chancellor Under-Treasurer and Barons of the Exchequer and the Attorney-General of Us our heirs and successor for the time being that they and every of them in their several offices and places respectively be from time to time aiding and assisting unto the said [Company] and to such person and persons as shall be by them from time to time assigned and deputed in and about the due execution of this our present grant and of all privileges inhibitions matters and things herein mentioned and contained for the benefit of the said Company and their successors, And these presents or the enrolment constat or exemplification thereof shall be to them and every of them a sufficient warrant and discharge in that behalf :<sup>1</sup>

*Provided always* that if the said [Company &c.] shall not from time to time import and bring or cause to be imported and brought from the parts beyond the seas and delivered into the Tower of London, there to be coined, so much foreign gold and silver bullion as shall by them or any of the Company or Corporation aforesaid be from time to time converted to the uses and purposes aforesaid, or shall not afford the said commodities to be made of gold and silver thread of sufficient

<sup>1</sup> See *ante*, p. 28, footnote (1).



goodness and at the like or cheaper rates than heretofore it hath been usually sold within this Realm, Or in case any other inconvenience or prejudice shall arise unto the state of this Kingdom or Commonwealth by this Corporation or the exercise of any matter or thing herein or hereby limited or appointed to be done, and the same shall so be declared or signified in writing under the hands of six or more of the Lords and others of the Privy Council of Us our heirs and successors for the time being, That then these our Letters Patents shall forthwith determine and be utterly void and of no force, anything herein contained to the contrary in any wise notwithstanding : <sup>1</sup>

Although express mention &c.,

In witness &c. witness our self at Westminster the xivth day of June

*per breue de priuato sigillo.*

## WESTMINSTER SOAPMAKERS<sup>2</sup>

(Patent Rolls, 7 Car. I., pt. xii.)

REX omnibus ad quos &c.

*Sciatis quod Nos subditorum nostrorum commune prospicientes commodum in infra scriptis de gratia nostra speciali ac ex certa sciencia et mero motu nostris volumus quod de cetero imperpetuum infra Ciuitatem nostram Westmonasterii in Comitatu nostro Middlesexie sit et erit una Societas de Saponariis in unum corpus corporatum et politicum redacta :*

*Ac subscriptos scilicet Henricum Compton Ordinis Balnei militem, Henricum Guildford, Nicholam Fortescue, Basilium Brooke, Edwardum Stradling, Ricardum Weston, Willelmum Foors, et Jacobum Bagg, milites,*

<sup>1</sup> In 1624 a Petition was presented (*S.P. Dom.*, Jac. I. clxv.) complaining of the incorporation. It recites the grant and continues :—‘ And forasmuch as the said new Company did never bring or cause to be brought any foreign gold or silver coin or bullion into this Realm, but made the same wire of bullion from within this kingdom and yet neither so good and true nor so cheap as formerly the same was before the said Letters Patents, And that the said ancient craftsmen of the said art of wire drawing were prohibited to use their lawful trade wherein they were brought up and whereby their families were maintained, all which are against law, The humble Petition of

your subjects is that your Majesty would be graciously pleased to publish and declare the same accordingly and that the said Letters Patents should never hereafter be put in execution.’ It was answered thus :—‘ The Patent remains in the Clerk of the Parliament’s hands and is not used. And His Majesty is well pleased it be recalled by course of law, if they will not voluntarily surrender it.’ Cf. *ante*, p. 99 (2).

<sup>2</sup> See Introduction, *ante*, pp. lxxv.–lxxvii. After five years’ life the Society was bought out (see Indenture in *Patent Rolls*, 13 Car. I. pt. xxxix.) and replaced by the London Soapmakers’ Society (see charter printed at p. 160, *post*).

*Georgium Gage, Bainham Vaughan, Francis Townley, Beverley Bretton, Thomam Jones et Thomam Russell*,<sup>1</sup> armigeros, et successores suos in societatem predictam ac in unum corpus corporatum et politicum in re facto et nomine per nomen **Gubernatoris Assistencium et Sociorum Saponariorum in Civitate Westmonasterii in Comitatu Middlesexie** pro Nobis heredibus et successoribus nostris facimus creamus et constituimus, ac per nomen predictum nuncupari volumus per presentes :

Et quod ipsi ac alii in forma sequenti in Societatem illam eligendi et admittendi et successores sui per idem nomen habeant successionem perpetuam :

Quodque ipsi et successores sui sint et erunt perpetuis futuris temporibus persone habiles et in lege capaces ad habendum proquirendum possidendum et retinendum terras tenementa hereditamenta bona et catalla sibi et successoribus suis in feodo et perpetuitate vel pro termino vite vel annorum, ac bona et catalla iura et debita cuiuscumque generis, necnon ad dandum assignandum dimittendum et disponendum eadem terras tenementa hereditamenta bona et catalla, Necnon per nomen predictum plicare et plicari defendere et defendi valeant et possint in quibuscumque Curii et locis ac coram quibuscumque Iudicibus Justiciariis vel aliis officiariis nostris heredum et successorum nostrorum in omniismodi accionibus plicitis querelis et demandis modo et forma prout aliquis ligeus noster habilis et in lege capax aut aliquod alium corpus corporatum seu politicum quodcumque valeat et possit :

*Volumus etiam*, ac per presentes pro Nobis heredibus et successoribus nostris concedimus, eisdem Gubernatori Assistentibus et Sociis Societatis predictae quod predictus *Ricardus Weston* miles sit primus et modernus Gubernator Societatis predictae, et predicti *Henricus Compton, Henricus Guildford, Basilus Brooke, Nicholas Fortescue*, milites, *Georgius Gage, Bainham Vaughan, Franciscus Townley, Thomas Jones et Thomas Russell*, armigeri, sint primi et moderni Assistentes Societatis predictae et predicti *Edwardus Stradling, Jacobus Bagg, Willelmus Foorde*, milites, et predictus *Beverley Bretten*, armiger, sint Socii primi et moderni Societatis illius :

Eundemque *Ricardum Weston*, primum et modernum Gubernatorem, et predictos *Henricum Compton, Henricum Guildford, Basilium Brooke, Nicholam Fortescue*, milites, *Georgium Gage, Bainham Vaughan, Franciscum Townley, Thomam Jones et Thomam Russell*, primos et modernos Assistentes, ac predictos *Edwardum Stradling, Jacobum Bagge, Willelmum*

<sup>1</sup> See previous grant to some of these patentees, *ante*, p. lxxv. (4). In the grant printed above, the names *Foors* and

*Bretton* are elsewhere spelt *Forde* and *Bretten* or *Britten*.



*Forde*, milites, et predictum *Beverley Britten*, primos et modernos Socios Societatis predictae facimus creamus et ordinamus per presentes :

Quem Gubernatorem in officio suo continuare volumus usque diem lune proximum post festum Ascensionis Domini in anno Domini secundum computationem Ecclesie Anglicane millesimo sexcentesimo tricesimo tertio et abinde quousque alius in locum Gubernatoris Societatis illius in forma sequenti eligatur :

Quodque quilibet dictorum Assistencium et Sociorum in dictis respectue officiis continuabunt ad terminum vite sue nisi ex iusta causa interim ab officio vel loco Assistencium et Sociorum amoveantur :

Quodque iidem Gubernator Assistentes et Socii Societatis predictae habeant commune sigillum pro causis et negotiis suis et successorum suorum quibuscumque agendis deseruiturum, et quod liceat eisdem sigillum illud ad libitum suum frangere mutare et de nouo facere prout eis fore videbitur expediens :

Et ulterius pro Nobis heredibus et successoribus nostris concedimus licenciam prefatis Gubernatori Assistentibus et Sociis Societatis predictae et successoribus suis in aliquo loco convenienti infra predictam ciuitatem Westmonasterii seu alibi in comitatu nostro Middlesexie vel Surrie per prefatos Gubernatorem Assistentes et Socios Societatis predictae et successores suos designandos quandam domum concilii ac aulam communem habere, et ibidem in die lune proximo post festum Ascensionis Domini singulis annis seipsos congregare et convenire, et cum libero consensu prefatorum Gubernatoris Assistencium et Sociorum Societatis predictae vel maioris partis eorundem interesse volencium nominare et eligere unum discretum et idoneum virum de Assistentibus eiusdem Societatis qui sic electus in eodem officio stabit et continuabit usque in diem lune proximum post festum Ascensionis Domini extunc proxime sequentem et abinde quousque alius eius loco eligatur et perficiatur nisi interim ex iusta causa a loco illo debite amoveatur :

Quodque liceat eisdem Gubernatori Assistentibus et Sociis Societatis predictae infra domum siue aulam communem predictam quoties eis expediens videbitur (dummodo per Gubernatorem Societatis predictae vel eius Deputatum vel per sex Assistentes eiusdem Societatis Gubernatore non existente sint summoniti) congregare et capitulum de se facere et Assistentes de discretioribus Sociis Societatis predictae quos voluerint (dummodo ultra viginti Assistentes eiusdem Societatis simul et semel non existant) et Socios eiusdem Societatis quos voluerint admittere eligere substituere et perficere quoties necessarium eis videbitur :

Volumus tamen Gubernatorem et quemlibet Assistencium de Assistentibus et quemlibet de Sociis Societatis predictae per maiorem partem Assistencium et Sociorum Societatis predictae (ut dictum est)

debite premonitorum interesse volencium iusta de causa amobilem et amovendum esse :

Et si contigerit Gubernatorem vel Assistentem vel Socium quemquam Societatis predictæ obire vel amoueri per quod locus vel officium suum vacuum deveniet, tunc licebit superuiuentibus Gubernatori Assistentibus et Sociis Societatis predictæ seipsos in aula predicta similiter congregare et convenire et ibidem aliam personam vel personas fore Gubernatorem Assistentem vel Socium Societatis predictæ in forma predicta loco et vice illorum Gubernatoris Assistentis vel Socii aut eorum aliquorum vel alicuius sic defuncti aut amoti nominare et eligere in predictum Gubernatoris officium et loco illo continuandum usque diem lune proximum post festum Ascensionis Domini tunc proxime sequentem et abinde quousque alius de nouo eligatur ut predictum est, et predictos Assistentes et Socios in locis predictis separatim continuandos prout superius declaratum est :

Quequidem personæ sic electe sint et erunt respectiue Gubernator Assistentes vel Socii Societatis predictæ in forma predicta, Ac ipsum Gubernatorem Assistentem vel Socium Societatis predictæ pro Nobis heredibus et successoribus nostris facimus creamus et ordinamus per presentes et sic toties quoties casus sic acciderit :

Insuper volumus, et per presentes pro Nobis heredibus vel successoribus nostris concedimus, prefatis Gubernatori Assistentibus et Sociis Societatis predictæ et successoribus suis quod licebit Gubernatori et Assistentibus et Sociis Societatis predictæ per Gubernatorem illius vel Deputatum suum pro tempore existentem convocatis aut maiori parti eorum interesse volentium (dummodo sex eorum adminus sint presentes) de tempore in tempus pro bono regimine supportacione et publico commodo Societatis predictæ facere ordinare et stabilire statuta leges et ordinationes quascumque seipsos et saponarium misterium concernentes et ea executioni debite mandare, ita tamen quod eadem statuta leges ordinationes et decreta non sint contraria statutis et legibus huius regni nostri Angliæ :

Cumque accepimus quam plures deceptiones in exercicio artis et misterii coquendi preparandi conficiendi et vendendi saponis et extrahendi elixandi imbibendi cremandi et fundendi salis cinerum sive salis alcali vulgo dicti Pottashes vel Pittashes et salis sode aut aluminis catini <sup>1</sup> vulgo dicti sode and berillia <sup>2</sup> et cineris clauellati <sup>3</sup> vulgo dicti

<sup>1</sup> Catinus = pot.

<sup>2</sup> 'An impure alkali . produced by burning the barilla plant': *N.E.D.* (s.v. 'barilla,' 2).; see also *ibid.*, s.v. 'potash,' 1 b. 'The material barilla' is mentioned in *Patent Rolls*, 20 Jac. I. pt. xii. (see *ante*,

p. lxxv. (2)).

<sup>3</sup> 'Clavellated ashes: "potash of superior quality obtained from the dried and calcined lees of wine, for the use of dyers." (Godefroy)': *N.E.D.*



soape ashes in regno nostro diversimode fiant in nostri et populi nostri damnum non modicum et iacturam,

Nos, volentes huiusmodi deceptionibus in quantum poterimus obuiare et supra hoc remedium imponere opportunum, concessimus prefatis Gubernatori Assistantibus et Sociis Societatis predictae et successoribus suis plenam potestatem quod Gubernator et Assistentes Societatis predictae pro tempore existentes vel maior pars eorundem interesse volencium singulis annis in et super predictum diem lune proximum post festum Ascensionis Domini eligere possint de Assistantibus vel Sociis Societatis predictae quatuor probos et discretos viros in re saponaria et premissis predictis peritiam habentes pleniorum pro quibus iidem Gubernator et Assistentes respondere voluerint ad supervidendum et scrutandum a tempore electionis predictae usque in diem lune proximum post festum Ascensionis Domini per se vel per deputatos suos pro quibus ipsi respondere voluerint in anno tunc sequenti omnes operarios et servientes et opera omnium et singularum personarum quarumcumque exercencium artem siue misterium coquendi preparandi et conficiendi saponis vel extrahendi elixandi imbibendi cremandi vel fundendi salis cinerum siue salis alcali vulgo dicti Pottashes vel Pittashes et salis sode aut aluminis catini vulgo dicti sode et berilia et cineris clavelati vulgo dicti soape ashes ex vegetalibus vel materialibus decrescientia infra regnum nostrum Anglie siue dominium Wallie vel infra idem regnum Anglie siue dominium confecta vel infra regnum siue dominium predictum a partibus externis vendicioni exponenda deportata, ac viis et mediis quibus convenit melioribus scrutandum et examinandum utrum huiusmodi saponis sit bene olens et bene coctus et utrum huiusmodi saponis et alie res predictae recte prout decet comparata sunt et confecta ac usui hominum commode deservientia ac fraudes et defectus quos in operatoribus siue operibus suis invenerint corrigi et debite emendari facere secundum eorum sanas discreciones et leges et consuetudines regni nostri Anglie, et ad inhibendum districte ex parte nostra singulis operatoribus misterii predicti (quos etiam prohibemus per presentes) ne quis eorum vendat aut vendicioni exponat infra regnum aut dominium predictum aliquem saponem factum vel faciendum aut aliquod premissorum antequam per supervisores predictos vel eorum deputatos superuideantur et pro bene olentibus et utilibus et bene et fideliter operatis signo ad hoc ordinato et ordinando consignentur, et ad omnem saponem et alia premissa post inhibitionem huiusmodi vendicioni exposita in quorum operatione defectus vel deceptiones inventi fuerint arrestanda et loco publico defectibus et deceptionibus huiusmodi omnibus interesse volentibus prius declaratis destruenda :

Quibus quidem quatuor hominibus vel quibuslibet duobus eorum ac deputatis suis ad premissa omnia et singula de tempore in tempus agenda et in hac parte contrariantes et rebelles (si qui fuerint) debite castigari facere plenam tenore presencium concedimus potestatem :

Et ulterius volumus ac per presentes pro Nobis heredibus et successoribus nostris ordinamus et constituimus quod prefatus *Ricardus Weston*, miles, superius in presentibus nominatus fore Gubernator Societatis predictae et quilibet alius de tempore in tempus in officium illud eligendus, antequam ad exercitium officii Gubernatoris Societatis predictae admittatur vel in eodem officio se intromittat, sacramentum corporale super sanctum Dei Euangelium ad officium illud bene et fideliter in omnibus et per omnia officium illud tangentia exequendum coram predictis Assistentibus Societatis predictae aut duobus vel pluribus eorum prestandum :

Quibus quidem Assistentibus ac quibuslibet duobus vel pluribus eorum sacramenti ut prefertur prefato *Ricardo Weston* militi et cuilibet alio de tempore in tempus in officium illud eligendo administrandi et de ipso suscipiendi plenam potestatem et auctoritatem damus et concedimus per presentes, et hoc absque aliqua commissione aut ulteriori warranto a Nobis heredibus vel successoribus nostris in hac parte procurando et obtinendo :

Et quod bene liceat Gubernatori et Assistentibus Societatis predictae pro tempore existentibus formam iuramenti idoneam per singulos Societatis eiusdem eorumque ministros et seruientes prestandi ordinare, ac eisdem Gubernatori Assistentibus et Sociis Societatis predictae et successoribus suis licenciam similiter et potestatem damus et concedimus quod bene liceat et licebit Gubernatori eiusdem Societatis in presencia duorum vel plurium Assistentium Societatis predictae sacramentum huiusmodi iuramenta in hac parte prestanda suscipere, et hoc absque aliqua commissione seu ulteriori warranto a Nobis heredibus vel successoribus nostris in ea parte procurando aut obtinendo :

Concessimus insuper, ac per presentes pro Nobis heredibus et successoribus nostris concedimus, prefatis Gubernatori Assistentibus et Sociis Societatis predictae pro tempore existentibus tam presentibus quam futuris artem et misterium operandi conficiendi preparandi et vendendi saponis tam modo solito et usitato quam imposterum modis quibuscumque licitis inveniendi seu excogitandi, et extrahendi elixandi imbibendi cremandi et fundendi salis cinerum siue salis alcali vulgo dicti Pottashes vel Pittashes et salis sode aut aluminis catini vulgo dicte sode et herilia et cineris clavellati vulgo dicti soape ashes, eaque vendendi, et artem siue misterium predictum erigere occupare et exercere eisque uti, licet ipsi vel eorum aliquis tanquam apprenticius in



eisdem artibus siue misteriis illis vel eorum aliquo iuxta formam statuti<sup>1</sup> in huiusmodi casu editi et prouisi educatus non fuerit, aliosque in operibus suis artem siue misterium predictum concernentibus conducere ipsosque in operibus illis ponere et constituere Anglice 'sett on worke,' licet ipsi apprenticii non fuerint vel aliquis eorum apprenticius non fuerit :

Et quod quilibet de Societate predicta apprenticios ad ipsos deserui-  
entes in arte et misterio predicto capere et conducere valeat, statuto  
predicto in aliquo non obstante :

*Ac ulterius sciatis quod Nos de ulteriori gratia nostra speciali ac ex  
certa sciencia et mero motu nostris concedimus predictis Gubernatori  
Assistentibus et Sociis Societatis predictae et successoribus suis quod  
liceat eis et successoribus suis de tempore in tempus terras et tenementa  
que de Nobis hereditibus aut successoribus nostris aut de aliis non tenentur  
per seruitium militare aut de Nobis per seruitium soccagii in capite  
usque ad valorem annualem centum librarum acquirere et tenere in feodo  
vel ad terminum vite vel annorum et singulas terras et tenementa sua que  
non teneantur ut predictum est eisdem Gubernatori Assistentibus et  
Sociis Societatis predictae in feodo vel ad terminum vite vel annorum  
alienare et concedere licenciam similiter damus et concedimus per  
presentes, statuto de terris et tenementis ad manum mortuam non  
ponendis non obstante :*

Eo quod expressa mentio &c.

In cuius rei &c.

T. R. apud Westmonasterium vicesimo die Ianuarii

*per breue de priuato sigillo.*

## SOUTH AND NORTH SHIELDS SALTMAKERS<sup>2</sup>

(Patent Rolls, 11 Car. I., pt. xx.)

CHARLES, *by the Grace of God King of England Scotland France and  
Ireland, Defender of the Faith &c.*, To all to whom these presents shall  
come, Greeting :

*Whereas* our wellbeloved subjects *Sir Richard Brooke Knight, Alinot  
Clinch, John Duke and Edward Nuttall, Esquires*, did heretofore humbly

<sup>1</sup> The Statute of Artificers, 5 Eliz. c. 4, s. 31, allowed no one to 'exerise any craft mystery or occupation now used or occupied within the Realm of England or Wales, except he shall have been brought up therein seven years at the least as apprentice in manner and form aforesaid, nor to set any person on work in such mystery art or occupation being not

a workman at this day, except he shall have been apprentice as is aforesaid. . . ' By s. 34 all contracts of apprenticeship contrary to this Act were made void, with a penalty of £10.

<sup>2</sup> See Introduction, *ante*, pp. lxxiii.-iv.; a second charter is printed *post*, pp. 167-172. Cf. that of the Yarmouth Saltmakers, *post*, 148-160.

offer unto Us a proposition in the names and on the behalf of themselves and divers other gentlemen and merchants their partners and associates concerning the making of salt within this our Kingdom of such goodness and to such a quantity as should be sufficient for the expense of a great part of this Kingdom of England as well for fishing voyages as for home uses, the same salt to be made of seawater and to be vended at such rates and prices as should be reasonable for the subject and a good profit also raised and conferred unto Us for the increase of our revenue to recompense with any loss We may receive in our Customs by the not importing of foreign salt,

Which proposition, having been heard by Us and our Privy Council, was upon a serious debate thereof approved of, being conceived to be a work worthy of our encouragement tending not only to our own profit and augmentation of our revenue but to the general good of our whole Kingdom in reducing salt to become a native commodity of this our Kingdom which was formerly brought from foreign parts and oftentimes bought at extreme dear rates at the pleasure of strangers who well know it to be a commodity we cannot want,

*Now know ye that We*, for the better accommodation and advancement of this so good and public a work, and to enable and invest the expounders and undertakers thereof and their partners and associates with such powers and privileges as are meet for the well ordering and government of the same, *of our especial grace certain knowledge and mere motion* We will that for ever hereafter there be and shall be one Society of Saltmakers reduced into one body politic and corporate consisting only of the number of two and twenty persons and not above at any one time,

And therefore will and ordain that *Sir Henry Gibb*, Knight Baronet, *Sir William Lampton*, *Sir William Bellassis*, *Sir Richard Brooke*, *Sir Nicholas Tempest*, Knights, *Thomas Goodwyn*, *John Duke*, *Alinott Clinch*, *John Heath*, *William Mott*, *Edward Nuttall*, *John Eldred*, Esquires, *Leonard Carre*, *Samuell Mott*, *Raiph Reede*, *William Chapman*, *Nathaniell Strickson*, *Robert Anderson*, *George Milburne*, *Thomas Ledgerd*, *Matthew Matsinne*, and *Robert Wallace*, Gentlemen, and others in manner hereafter expressed to be chosen and their successors shall be from henceforth one Society and Body Corporate and Politic for ever to endure in deed fact and name by the name of **Governor Assistants and Commonalty of the Society of Saltmakers at the North and South Shields in the Counties of Durham and Northumberland in the Kingdom of England**, and them by the same name into one body politic We do for Us our heirs and successors make create and constitute, And that they shall be called by that name We do will and ordain by these presents :



And that of them there shall be one Governor, two Deputy Governors, two Wardens, six Assistants, and eleven others of the Commonalty of the said Society, and they and others in manner hereafter following to be chosen and admitted into the said Society and their successors by the same name shall have perpetual succession :

[Power in law to hold and dispose of lands and goods, &c., and to sue and be sued] :

[First officers nominated :—Governor, *Bellasis* ; Deputy Governors, *Nuttall* and *Carr* ; Wardens, *Reed* and *Chapman* ; Assistants, *Lambton*, *Tempest*, *Goodwin*, *Samuel Mott*, *Anderson* and *Ledgerd* ; *Gibb*, *Brooke*, *Duke*, *Clinch*, *Heath*, *Wm. Mott*, *Strickson*, *Milburn*, *Matsinn*, *Eldred* and *Wallace*] to be the first and modern eleven of the Commonalty of the Society aforesaid :

[These officers We hereby create ; the Governor to continue till Monday after St. Bartholomew's Day 1636, and then till further election ; Deputy Governors and Assistants for similar term, unless for just and reasonable cause amoved from office ; members of the Society to be members for life unless so amoved] :

In which cases and in all other cases which shall concern the government of the said Company, if the votes or voices of the said Company present either in person or by proxy shall fall out to be equal, We will that the voice of the Governor shall be the casting voice :

And We further will and grant that the said Governor Assistants and Commonalty of the Society aforesaid or any of them other than the Governor or the Deputy Governors and Wardens may nominate any one of the Society by writing under his or their hand and seal to be his and their proxy respectively, and that every one so nominated may as proxy for the other being absent deliver his voice or vote in any elections or other things concerning the said Society, which shall be as effectual as if such person were then actually present and in his own person did deliver his voice or vote :

[Power to have a common seal &c.] :

[Power to meet in some convenient place in the Counties aforesaid, to] have one certain house of council and common hall and also one other house of council and common hall in or near the City of London or elsewhere, [and there meet and treat of their affairs, and annually on the Monday after St. Bartholomew's Day nominate officers &c.] :

And moreover We will and by these presents for Us our heirs and successors do grant to the said [Society &c.] that it shall be lawful for the [Society] being called by the Governor or in his absence by the Deputy Governor or Governors of the said Society for the time being or the greater part of them that will be present, (so as twelve of them

at the least be present in person or by their proxy, whereof the Governor or Deputy Governor to be one, be from time to time present), for the good government supportation and advancement of the said Society and trade and of all such as by them shall from time to time be employed or set on work therein, to make ordain establish and publish statutes laws orders and ordinances whatsoever concerning the said Society or saltworks and concerning the raising levying and answering unto Us our heirs and successors the yearly sums payments and allowances expressed in an Indenture of Covenant made between Us and the said Society bearing date with these presents,<sup>1</sup> upon every wey<sup>2</sup> of salt to be sold by the said Society [and concerning other matters generally; and these statutes to enforce by penalties therein expressed, if not contrary or repugnant to the laws of the Realm]:

[Governor, before taking office, to] take his corporal oath upon the Holy Evangelist [for due execution of office, before any three or more officers; power to administer oath; other officers similarly before the Governor and any two Assistants; power to administer oath] without any other commission or further warrant from Us on that behalf; [power to Governor and Wardens to ordain the form of oath to be taken by members and to administer same]:

And for the better regulating and managing of the said saltworks We do by these presents for Us our heirs and successors give and grant full power and authority to the [Society] that it shall and may be lawful for them to make ordain and appoint from time to time such and so many officers and ministers to serve and be employed in and about the said works and the businesses of the said [Society] as they shall think meet in that behalf:

And moreover for the furtherance and advancing of the said works and removing and redressing such lets and impediments as may from time to time happen or fall out in prejudice of the same, and the better to enable and invest the said Society with the necessary powers and jurisdiction for promoting the said work, We *of our like especial grace certain knowledge and mere motion* have given and granted [and hereby do give and grant &c. to the Society &c.] that the said now present Governor and Deputy Governors of the said Society, and also every such other person and persons as hereafter shall be elected and sworn unto the said offices or places of Governor and Deputy Governor of the said Society, for and during the time of their said several offices shall be Justices of the Peace within our said Counties of Durham and

<sup>1</sup> *Patent Rolls*, 11 Car. I. pt. xxvi.  
See *ante*, p. lxxiv.

<sup>2</sup> According to a later grant (*post*, p. 170),

10 gallons (Winchester measure) went to the bushel, and 40 bushels to the wey.



Northumberland and within such other Counties where the said Company shall hereafter erect new and other saltworks, and shall have such and the like powers and authorities as any other our Justices of Peace to examine determine and punish all such as shall offend against the laws and statutes of this Realm, so as the said Governor and Deputy Governors or any of them do not proceed to the hearing or determining any offence or offences touching the loss of life or member without our special commission and warrant in that behalf ; And them the said Governor and Deputy Governor now being, and the Governor and Deputy Governor which hereafter for the time shall be, Justices of Peace within the said Counties of Durham and Northumberland and such other Counties as aforesaid We do for Us our heirs and successors make constitute and ordain by these presents :

And We will [&c.] and straitly charge and command all and singular Mayors Justices of Peace Sheriffs bailiffs constables head-boroughs and all other officers ministers and subjects of Us our heirs and successors dwelling and inhabiting in the said Counties of Durham and Northumberland or either of them and the Towns of Newcastle-on-Tyne and Sunderland near adjoining and of or in all other Counties where any such other or new works shall be erected as aforesaid, That they upon request in that beha'f made from time to time and at all times hereafter as often as occasion shall require shall be aiding helping furthering and assisting to the said [Society] for the time being and every of them and their successors, and for the doing enjoying having and executing all and singular the premises according to the tenor and true meaning of these presents :

And further of our more abundant grace certain knowledge and mere motion We do for Us our heirs and successors give and grant unto the said [Society], and do hereby declare our express will pleasure and commandment to be, that they and their successors and all and every the members of the said Society or any who have or shall submit themselves to the government thereof and their workmen labourers and servants at any time hereafter by Us our heirs or successors or the officers or ministers of Us our heirs or successors or by or from the Mayor or Burgesses of Newcastle-on-Tyne or any other person body politic or corporate or any other in the places where the saltworks of the said Society now are erected or hereafter shall be erected shall not be interrupted molested inquieted or disturbed, But that the same saltworks and every of them now be and shall be established unto them, And the said saltworks and every of them to the said [Society] We do for Us our heirs and successors ratify establish and confirm by these presents, Notwithstanding any encroachment upon the sea coasts the

Rivers of Tyne and Wear in the Counties of Durham and Northumberland or other Rivers waters or shores whatsoever by the said [Society] by means of erecting the same works or any of them heretofore had or made or hereafter to be had or made, there being a necessity that such works should be erected and continued in and upon such places so situated as aforesaid :

And likewise [etc., as above,] that all and every the workmen labourers and servants of the said Society attending their saltworks and employed thereabout shall be exempted and free from time to time of and from being pressed into the service of Us our heirs and successors either by land or by water but by the consent of the said Society or by the immediate command of Us our heirs or successors or by the special order of the Privy Council of Us our heirs or successors, to the end that by the diversion of their services the said saltworks might not be interrupted and so the said [Society] disabled to perform the same :

And further for the better advancement of the said works and the encouragement of the said [Society] therein We do for Us our heirs and successors by these presents straitly charge and command all and all manner of person and persons of what degree condition or quality soever he or they be, other than the said [Society their successors and assigns], that they nor any of them do or shall hereafter erect or set up or cause to be erected or set up any new saltworks in any ports parts or places whatsoever on the seacoast from the Town and Port of Southampton and Island of Wight to the Town and Port of Berwick or any of those Towns or Ports but such only as shall be erected and set up by the [Society] or their successors and assigns or by their licence assent and allowance in that behalf, and the person and persons erecting the same submitting and becoming obedient and subject to the government of the said [Society &c.] in and by all things touching the same, upon pain of our high displeasure and indignation and of the demolishing of the said works and such other pains and punishments as shall or may be inflicted upon him or them according to the laws or statutes of this Realm or otherwise as wilful contemners of our Royal will and pleasure in the premises, Except nevertheless such saltworks as are already erected or shall be erected by *Nicholas Murford* and *Christopher Hamworth*<sup>1</sup>, gentlemen, or their assigns according to their new invention :<sup>2</sup>

And to the end that the irregularity and obstinacy of some few makers or attempters to make salt as aforesaid who rather affect their own ends and singularity of opinions than the public good may not

<sup>1</sup> Spelt 'Hanworth' throughout the next charter.

<sup>2</sup> See *Patent Rolls*, 8 Car. I. pt. vi. ; a

grant to Murford and Hamworth for making salt with salt water. See *post*, pp. 148-9, and *ante*, p. lxxiv.



impeach destroy or hinder so good a work, We are pleased and We do hereby grant unto the said [Society] that from time to time if cause shall so require We our heirs and successors and our Privy Council for the time being, upon the humble petition and suit to be to Us made in that behalf by the said Society or their successors, will afford and interpose our regal authority and assistance for reducing those saltmakers owners or proprietors of saltworks, except before excepted, to a conformity and government of the said Society :

And further We do for Us our heirs and successors grant unto the said [Society] by these presents that, in case the said [Society] shall be able to make greater quantities of salt than shall be bought and taken of by the ports and places aforesaid within the limits aforesaid according to the true meaning of these presents, that then the said [Society] shall and may lawfully from time to time export or transport such overplus of salt into any other places or ports within this our Realm of England or into our Realm of Ireland or any foreign parts, paying to Us our heirs or successors such customs and other duties as are now usually paid for foreign salt imported :

Although express mention &c.

In witness whereof &c. witness ourself at Westminster the xxiii day of December,

*per breue de priuato sigillo.*

## GREAT YARMOUTH SALTMAKERS<sup>1</sup>

(Patent Rolls, 12 Car. I., pt. vii.)

CHARLES *by the Grace of God King of England Scotland France and Ireland Defender of the Faith etc.*, To all to whom these presents shall come, Greeting :

*Whereas* We are well satisfied by such as by our especial command We have employed and trusted for that purpose, that our wellbeloved and faithful subjects *Nicholas Murford* and *Christopher Hanworth*,<sup>2</sup> Gentlemen, by their long experience and great expense have heretofore found out invented and brought to perfection a new art way and manner of making of white salt of sea water with far less expense of fuel than was formerly or is now used therein, as also of making of other salt without any fuel and in probability of great quantities thereof

<sup>1</sup> See Introduction, *ante*, p. lxxiv., and *ante*, and pp. 167-172, *post*.  
other salt companies' grants, pp. 142-8,

<sup>2</sup> See *ante*, p. 147.

not formerly practised discovered and perfected within our Realms of England Scotland and Ireland or Dominion of Wales,

And to encourage and reward the industry and expense of the said *Nicholas Murford* and *Christopher Hanworth* in that behalf we formerly [by patent of Dec. 3rd, 1632, here recited, granted them exclusive powers for fourteen years<sup>1</sup>],

*And whereas* since that time the said [grantees] to put the same art and invention in practice have in or near our Town of Great Yarmouth in our County of Norfolk at their great charges and expenses erected one or more saltworks, where they have made such quantities of salt that their said invention by the trial and experience thereof made is well approved as aforesaid, [which said Letters Patent we hereby confirm and approve],

*And whereas* the said inventions We are informed may be of good use and benefit to Us and our subjects by saving vast quantities of sea coals and other fuel by others now spent and consumed in making of salt within this Kingdom of England and Dominion of Wales, and may also be of ease and much convenience to fishermen and other inhabitants in our maritime towns and villages by having salt in a readiness there made and vended at moderate rates for their fishing voyages and otherwise for the setting on work many of our poor people by employment therein,

*We therefore*, having taken into consideration the readiest ways and means to promote and advance so useful an invention, have thought fit to adjoin and associate such others unto them the said *Nicholas Murford* and *Christopher Hanworth* as they have or shall make choice of in this so great an undertaking,

*Know ye therefore that We* for the better establishing accommodation and advancement of the said saltworks according to the said invention and the trade arising thereby, and for the better regulating and ordering of the same and of the great number of people which will be necessarily employed in and about the said saltworks and trade, *of our especial grace certain knowledge and mere motion* We do for Us our heirs and successors will ordain constitute and appoint that *Edmund Earl of Mulgrave*, Knight of the Most Noble Order of the Garter, *Henry Lord Maltravers*, *Sir William Howard*, Knight of the Bath, *Sir Frauncis Crane*, Knight Chancellor of the Most Noble Order of the Garter, *Christopher Wandesford* Esquire, Master of the Rolls of our Kingdom of Ireland, *Sir Frauncis Worteley*, Knight and Baronet, *Endimion Porter* Esquire, one of the Grooms of our Bedchamber, *Charles Harbourn* Esquire, our Surveyor General, *Edward Nicholas* Esquire, one of the Clerks of our Privy Council,

<sup>1</sup> See *ante*, pp. lxxiv., 147 (2).



*Jepson Jewell Esquire, William Goughe Esquire, John Penruddocke Esquire, Benedict Moore Esquire, Captain George Manwaring, Peter Pett Junior, gentleman, Peter Barrett gentleman, Smith Wilkinson gentleman, Alexander Bence gentleman, Peter Murford gentleman, Nathaniel Fleming gentleman, William Bennett, Tymothie Crusoe, William Murford, Hipwell Boughey, Thomas Girling, Samuel Winsley, John Cartwright, merchants, and the said Nicholas Murford and Christopher Hanworth, and such others as from time to time shall be chosen and admitted in manner and form hereafter in these presents expressed, shall be from henceforth one society and body politic and corporate for ever to endure in deed fact and name by the name of Governor Wardens Assistants and Commonalty of the Society of Saltmakers of Great Yarmouth in the County of Norfolk :*

[To be by that name corporate ; to be called by that name ; to have one Governor, two Wardens, and thirty-nine Assistants including the Governor and Wardens ; to have perpetual succession, and be persons able in law to take enjoy &c. lands tenements rectories tithes rents and hereditaments in fee or for term, also goods chattels rights debts &c. of all kinds, the Statute of Mortmain notwithstanding, and to dispose of the same ; power to sue and be sued ; power to purchase lands, not holden of the Crown *in capite* or by Knight service, up to the clear yearly value of £100] over and besides such other quantities of lands fit and necessary for the said works as in these presents is hereafter mentioned, without any writ or writs of *ad quod dampnum* or any other licence from Us our heirs or successors to be sued out prosecuted or obtained in that behalf, the Statute of Alienation in Mortmain notwithstanding :

*And of our more abundant grace certain knowledge and mere motion* We have given and granted and for Us our heirs and successors by these presents do give and grant to the said [Society] full and free liberty licence power privilege and authority that they or any member or members of them by him or themselves or by his or their factors or workmen and none other shall and may from time to time hereafter for and during all the residue yet to come and unexpired of the said term of fourteen years in and by the said Letters Patents granted unto the said *Nicholas Murford* and *Christopher Hanworth* their executors administrators or assigns, the licence and consent of the said [*Murford* and *Hanworth* &c.] being thereunto first had and obtained in writing under their or either of their hands and seals as hereafter in these presents is expressed and not otherwise, And from and after the expiration of the said term at all and every time and times and from time to time for ever freely and absolutely without any licence and consent as aforesaid,

at their own proper costs and charges use exercise and put in practice the mystery art way and means of making salt according to the invention aforesaid, And for that purpose and by such licence as aforesaid during the residue yet to come of the said term of fourteen years, and afterwards without licence as aforesaid, may erect make frame compose or perfect any saltwork or saltworks in any place or places within our Realms of England and Ireland and Dominion of Wales or any of them respectively, and upon the main land or any the islands belonging to the same shall or may [erect make &c.] any houses vessels furnaces pans cisterns coverts implements and other necessities to be used in and about the same, And also shall and may [make frame &c.] upon any of our wastes or upon any of the lands or soil of the said Company or of any member thereof in any our said Realms and Dominions respectively any ground-pans channels sunpans frostpans passages cisterns and conservatories for the seasonable receiving and storing of the seawater and the fining separating tempering working evaporating and making the same into brine as well for the making of salt without fuel as also for the purifying preserving and safe keeping of the said brine to make thereof white salt with fuel :

And also shall and may lawfully dig break or cut up the soil of any of our wastes moors heaths or fens to acquire or make fuel and to dry use and spend such fuel for the making any such salt as aforesaid, and to make and use all other landworks waterworks and workings and all other instruments devices and engines whatsoever fit and necessary for the putting in practice and using of the said mystery art way means and trade of making of salt and for the securing against the sea and other waters the said saltworks made and erected and to be made and erected and where any kind of fuel may or shall be fitly made digged acquired or shipped or laid to be shipped or stored for the making of such as aforesaid :

And the salt by them so made to sell and utter in gross or by retail or otherwise to dispose of within our said Realms and Dominion of Wales at their free wills and pleasures for the best commodity of the said Incorporation or any member or members thereof jointly or severally according to their joint or several interests in such saltwork or saltworks :

[First officers nominated :—Governor, *Lord Maltravers* ; Wardens, *Nicholas Murford* and *Christopher Hanworth* ; the others abovenamed (except *Nat. Fleming* and *John Cartwright*) with] twelve such other persons as shall be named by the said *Nicholas Murford* and *Christopher Hanworth* or the survivor of them in writing under his or their hands and seals [before All Saints' Day 1637, to be the first 39



Assistants<sup>1</sup>; *Fleming* and *Cartwright* to be] the two first of the Commonalty :

[All such officers We hereby create ;] And the said *Nicholas Murford* to be the Ancient Warden, and to that end to be first sworn before the other Warden for the due execution of his place :

[Governor and Assistants to continue in office till Thursday after All Saints' Day 1637 or further election unless previously dying or amoved ; the Wardens to have power to appoint deputies for themselves in writing under seal ; Wardens to continue in office from the expiration of the fourteen years' patent until the following Thursday after All Saints' Day and then till further election unless by death their places become void ;] and also that every one of the Commonalty of the said Society shall be and continue respectively of the said Commonalty during the term of his natural life, unless any of them shall for just cause by the said [Society or majority be amoved ; the Governor, or in his absence the most ancient Warden, to have a casting vote] :

[Provision for common seal] :

[Power to meet in some convenient place in England Ireland or Wales] to have one or more houses of council and common halls, one to be in or near the Cities of London or Westminster ; [annual meetings on the aforesaid Thursday for business and election of officers] in manner following, *videlicet*, the said Governor to be chosen out of the said Wardens or Assistants, and the said Warden to be chosen out of the said Assistants, and the said Assistants to be chosen out of the said Commonalty :

[Power to admit persons to the Commonalty and administer oath] :

And further We do give and grant for Us our heirs and successors as well to the [Society] aforesaid and their successors as to the said [*Murford* and *Hanworth*] that it may and shall be lawful to and for the said *Nicholas Murford* and *Christopher Hanworth* and either of them their and either of their executors administrators deputies and assigns, during or within the residue of the said term of fourteen years only, to elect and make choice of such person or persons as shall agree with them the said [*Murford* and *Hanworth* &c. as above] to come in Adventurers in any saltwork or salt works or any part of such work or works which by them or either or any of them at the time of any such agreement as aforesaid is or are erected or by them or either or any of them have been caused to be made framed composed or perfected or by them or either or any of them or by their or either or any of their order licence or allowance is or are to be erected [&c.] :

Which said person or persons so agreeing shall have and take benefit

<sup>1</sup> Cf. the power to nominate in the *African Co.*, *ante*, p. 102.

as well of the said Letters Patents of privilege for and during the residue of the foresaid term of fourteen years thereby granted as aforesaid as of these our Letters Patents of Incorporation as members of the said Society, and shall be members of the Commonalty thereof, to which said person and persons so agreeing We authorise [*Murford and Hanworth &c.* to administer oath as ordained]:

[Power to make laws &c. at such assembly] whereof during the residue of the said term of fourteen years the said [*Murford or Hanworth or their deputies or one of them &c.*] to be always one; [after the end of the fourteen years the Governor and one Warden to be always two, with a quorum of twenty; the laws to be for the ordering of the said Society and its salt works and employees and all matters concerning them]:

[Power to punish by fine &c. members who break laws], and the same mulets fines pains and penalties to levy to the use of the said Society by such ways and means as any other corporation may lawfully do, [provided the laws are not contrary or repugnant to those of the Realms of England and Ireland]:

[Governor Wardens and Assistants to take oath; power to administer oath, and to ordain meet oaths to be taken by officers and] freemen:

[Power to appoint other officers]:

[Sheriffs Mayors &c. to be aiding]:

[Exemption to officers members and servants from being pressed,<sup>1</sup> and from being] empanelled required or compelled to serve upon Inquests or Juries, although We our heirs or successors shall be parties therein, without the consent of the [Society &c., except in certain cases<sup>2</sup>]:

And further, forasmuch as it is necessarily required that the said saltworks should be erected made framed composed or perfected in places near adjoining to the seacoasts of our said several Realms and Dominion of Wales and upon or near to navigable rivers of the same, And also for that to every such saltworks there must be used and employed a convenient quantity of land for the bottoming making and composing of groundpans sunpans channels passages cisterns and conservatories for the receiving fining evaporating and working of seawater for the making purifying and preserving of brine as also for the making of salt without any fuel and for the erecting of houses making of furnaces pans covers cisterns and many other particulars and also or laying of sluices placing of water engines and keying<sup>3</sup> with other

<sup>1</sup> As above, p. 147.

<sup>2</sup> As above, p. 147.

<sup>3</sup> Probably quaying: see *N.E.D. s.v.*

'key,' sb. 2: possibly in the sense of securing (see *ibid.*, *s.v.* 'key, v.' and see 'keying.'



fortification against the sea rivers creeks and other waters, We are therefore pleased and do hereby for Us our heirs and successors grant to the said [Society] that neither they nor any member or person of the said Society his heirs executors administrators or assigns or any of his or their servants ministers or workmen shall by Us our heirs or successors or by any other person or persons in our name or under our right or title be sued molested interrupted or inquieted for or by reason of any saltwork or saltworks heretofore erected [&c. or hereafter to be erected &c.] as aforesaid in any place or places in our said several Realms or Dominion of Wales or any of them or of the islands belonging to either of them respectively upon any of our lands deserted by the sea or wastes or soil near adjacent or adjoining to the sea or upon any salt river creek or creeks thereof or any other waters :

And the said saltworks already so erected [&c.], and also the land and soil whereon the said saltworks are or hereafter shall be erected [&c.], and all such other land and soil which shall be fit and proper for the digging of turf or peat or of any other kind of fuel to be used and employed for the making of the said salt, We do for Us our heirs and successors to the said [Society] and their successors and to every several person or member of the said Society respectively and to his and their heirs executors administrators and assigns according to their several and respective estates and interests therein grant establish and confirm by these presents for ever, Any encroachment made or to be made upon the sea shores sea coasts rivers creeks or other salt waters wastes shores or soil whatsoever by them or any of them so made or hereafter to be made as aforesaid in any wise notwithstanding :

And that also all the said lands and saltworks therein already made or erected shall be for ever free acquitted and discharged of and from the payment or rendering of any manner of tithe or tithes whatsoever unto Us our heirs or successors : <sup>1</sup>

And for the better furtherance and establishing of the said saltworks and new invention of making of salt, We do by these presents *of our further especial grace certain knowledge and mere motion* for Us our heirs and successors declare our will and pleasure to be that at all every or any time or times hereafter, upon the Petition of the said [Society] of Saltmakers to Us our heirs or successors to be exhibited for the purpose, We our heirs and successors under the Great Seal of England shall and will grant convey and assure unto the said [Society] and their successors for ever or unto such person or persons and his or their heirs in fee simple as the said [Society] shall by writing sealed with their common seal at any time from time to time name limit and appoint, all and every

<sup>1</sup> Cf. *ante*, pp. xcii., xciv. (1).

such quantity and quantities of land of Us our heirs and successors at any time or times heretofore deserted or left or hereafter to be deserted or left by the sea or waste land or soil near adjoining to the sea or unto any salt river or creek or creeks or unto any other rivers or waters, as well for the necessary use of the said saltworks as for the digging of turf or peat or of other fuel [&c. as above], To be assigned and set forth and to be reasonably and moderately rated and valued by the officers or Commissioners of Us our heirs and successors to be assigned and appointed in that behalf, the said land or soil so to be granted and assured to be held of Us our heirs and successors for ever as of our manor of East Greenwich in the County of Kent by free and common socage and not *in capite* nor by knight service, at and under such yearly rent and reservations as by our said officers or Commissioners shall be so moderately set and limited as aforesaid, and in such manner as may be for the encouragement of the said works and the undertaking therein which We are willing to advance, and without paying or rendering in any wise any manner of tithe or tithes whatsoever unto Us our heirs or successors for the [same]:

And in case any variance or discord shall arise between the said Corporation or any member or members thereof with any owner or owners or pretended owner or owners or other occupiers of any lands tenements or soil where such saltwork or saltworks are or shall be erected or touching any ways leading thereunto or carriages to be necessarily had or made to or from the same, our will and pleasure is that two Justices of the Peace next adjoining to the said place or places, not having or pretending any right or interest in the same, shall and may have power hereby to call the parties on both sides before them, and shall and may set down an equal and indifferent end between them giving the owner or owners [&c. as above] such meet and fitting recompenses and compositions as in their judgments and wisdoms shall be thought meet, which said Justices of Peace We for Us our heirs and successors do hereby require, upon reasonable request to them to be made, to do and perform their utmost endeavours in that behalf: <sup>1</sup>

And to the end the said *Nicholas Murford* and *Christopher Hanworth* may have and receive a due recompense reward and benefit for their so great charge travail and adventure, We do therefore for Us our heirs and successors by these presents will ordain declare and appoint, in case the said *Nicholas Murford* and *Christopher Hanworth* or either of them shall decease within the said time of fourteen years, That then the executors administrators and assigns of the said *Nicholas Murford*

<sup>1</sup> Cf. the common law proceedings *de partitione facienda*, and *ante*, pp. lix. (6), and 46.



and *Christopher Hanworth* or either of them respectively shall have hold take and enjoy during the said term of fourteen years such the same and the like powers privileges profits interests and advantages whatsoever in and by all things touching or concerning the said Company and saltworks erected or to be erected as aforesaid in as ample a manner and form to all intents and purposes as the said *Nicholas Murford* and *Christopher Hanworth* or either of them are herein limited to have hold and enjoy [&c.] by virtue of this our present grant or otherwise howsoever :

And when and so soon as the said fourteen years shall be ended, our will and pleasure is that the said Wardens shall be yearly elected and chosen by the [Society] for the time being or [the majority of them as hereinbefore limited], And that from and after the said term of fourteen years shall be ended the said [Society &c. as aforesaid] shall and may at their free will and pleasures admit such and so many fit and discreet persons to be freemen and adventurers into the said Society and to be of the Commonalty thereof as shall desire to be admitted into the same, paying only for their admittance to the use of the said Society a reasonable fine for every such admittance, Anything in these presents to the contrary in any wise notwithstanding :

And forasmuch as the said *Nicholas Murford* and *Christopher Hanworth* have been the inventors and perfectors of the said works and have undergone exceeding great charges and burthens therein, We, minding that they should receive a full recompense and compensation for their said invention and undertaking, do for Us our heirs and successors by these presents will ordain declare and appoint and do hereby straitly charge and command as well the said [Society &c.] and every person and member of the said Society as also all and every other person or persons of what condition soever, That they nor any of them during the said term of fourteen years by our said Letters Patents of privilege to the said [*Murford* and *Hanworth* &c.] so granted as aforesaid do or shall hereafter erect make set up compose frame enlarge use or continue any salt pans ground pans or sun pans channels cisterns sluices water engines or saltworks in any part or parts within [England Ireland and Wales] after the way manner and invention of making salt or any part of the said invention so found out discovered perfected and practised by the said *Nicholas Murford* and *Christopher Hanworth*, nor from henceforth, to avoid all pretence or challenge unto any part of the said invention, do or shall make or compose any manner of ground pans sun pans frost pans or channels whatsoever for the fining separating working or evaporating seawater to make thereof any brine or salt without fuel, without the consent licence and allowance of the said

*Nicholas Murford* and *Christopher Hanworth* now Wardens their executors administrators or assigns for and during the residue of the said term of fourteen years, upon pain of our high indignation and to have also the said works to be demolished and pulled down and utterly defaced and to be further proceeded against according to the laws and statutes of our said Realms or otherwise for their contempt of our royal commandment in the premises :

And We do further for Us our heirs and successors will ordain declare and appoint that such person or persons as are or shall become members or freemen of the said Society, and upon composition or agreement first made or to be made within the said term of fourteen years with the said *Nicholas Murford* and *Christopher Hanworth* their or either of their executors administrators or assigns shall be by them or any of them during the said fourteen years licensed and allowed to erect any work or works for the making of salt according to the said way and invention or any part thereof as aforesaid, And after such licence and allowance shall not pay and satisfy such fine or fines sum or sums of money so compounded for or agreed upon and according to such composition and agreement, That then and in such case such person or persons shall be from thenceforth utterly disabled to use and practise the said way of salting or to have any privilege or benefit of or by the said Corporation or of or by being a member thereof, but shall be from thenceforth disfranchised and deprived of all such authority power or privilege as aforesaid :

And further for the better establishing and settling of the said Corporation and the said saltworks according to the way and invention aforesaid, We are pleased and do hereby for Us our heirs and successors will and declare our pleasure to be that at all or any time or times hereafter upon the humble petition of the said [Society] for the time being, And upon the Certificate of our Attorney General for the time being of any defect in these presents, We will be pleased by other Letters Patents or by any other lawful ways or means to grant and confirm unto them and their successors the licences powers privileges profits and all other the premises hereinbefore mentioned or intended, with such further enlargements as may be for the advantage and advancement of the said Society and the said works and invention and the better regulating ordering and governing of all and every such person and persons as are or shall be employed therein or shall oppose hinder or impugn the same :

Yielding and paying unto Us our heirs and successors for and in consideration of all and singular the premises by Us so granted as aforesaid, And the said [Society] aforesaid for themselves and their successors



and the said *Nicholas Murford* and *Christopher Hanworth* for themselves their heirs executors administrators and assigns respectively do covenant and grant to and with Us our heirs and successors by these presents in manner and form following, that is to say, that they the said [Society] and their successors after the end and determination of the residue of the said term of fourteen years, and the said [*Murford* and *Hanworth &c.*] during the residue of the said term of fourteen years, shall well and truly answer and pay to Us our heirs and successors to the hands of such person or persons as by Us our heirs or successors shall be authorised and appointed to receive the same, and in default of such appointment into the Receipt of Exchequer of Us our heirs and successors at Westminster, yearly and every year at the Feasts of St. Michael the Archangel and the Annunciation of the Blessed Virgin Mary or within forty days next after either of the said Feasts, for and upon every bushel of salt, accounting ten gallons of Winchester measure to the bushel, by them or any of them their agents workmen or assigns respectively made and to be made in the several ports of Barwick and Southampton and all and every the ports and places inclusively between the said ports of Barwick and Southampton, which they or any of them shall sell exchange barter dispose of or do away for home expenses three pence of lawful money of England, [and for every bushel so made and disposed of] to fishermen or for fishing uses and voyages one penny of like lawful money of England, the payment thereof to be accounted and to begin from the date hereof [&c.], And in the measuring of the said salt such course and manner shall be held as is or hath been most commonly used in those ports and places where the same salt shall be uttered or vended :

And also that they and every of them respectively shall and will well and truly pay to Us our heirs and successors in such manner as aforesaid for and upon every bushel of salt by them [their agents &c.] made and to be made in any other parts or places of our several Realms of England and Ireland or Dominion of Wales other than in the said several ports of Barwick and Southampton and the ports and places inclusively between them, which they or any of them shall sell exchange [&c.], such sum or allowance as shall be answered or paid unto Us our heirs and successors for and upon every bushel of salt made by any other person or persons whatsoever within those parts and places respectively, So as the said sum or allowance so to be made or answered unto Us [&c.] by any such person or persons do not exceed the sum of three pence of lawful money of England for and upon every bushel of salt so made and to be made which shall be sold exchanged [&c.] for home expenses, and to fishermen and for fishing uses and voyages one penny upon each bushel of like lawful money of England :

And moreover the [same covenantors as above] do further and respectively covenant [&c.] with Us our heirs and successors that they and every of them respectively shall and will cause and procure at the proper costs and charges of Us our heirs and successors all and every such person and persons as they the said [Society after the expiration of the said fourteen years, and the said Murford and Hanworth &c. during the residue of the term] shall admit and suffer to become interested or an owner or adventurer in any saltwork to be made erected [&c. according to the said invention &c.], to enter into covenant and by deed or deeds to covenant or agree with Us our heirs and successors that he and they and his or their heirs executors administrators and assigns and every of them respectively shall and will well and truly answer and pay unto Us our heirs and successors the said several rates and allowances of three pence a bushel and a penny upon the bushel respectively as aforesaid and all such other duties payments and allowances as aforesaid according to the true intent and meaning of these presents for and upon every bushel of salt by them so made and to be made [disposed of &c. as aforesaid], And for the keeping and subscribing of books for the entering of all such salt as shall be made sold or disposed of in manner and form hereinafter mentioned according to the true intent and meaning of these presents :

*Provided always* and our intent and meaning is not that the said Incorporation or their successors or the said [Murford and Hanworth &c.] or any of them shall be liable unto or charged with the payment of the said several rates of three pence the bushel and a penny the bushel respectively and other the premises as aforesaid, save only for and upon such salt as they or any of them or any other for their use or uses respectively shall make or cause to be made in such saltwork or saltworks only where they or any of them respectively is or are interested in his or their own right and is or are the proper and respective owner or owners possessor or possessors thereof, Anything herein contained to the contrary thereof notwithstanding :

And to the end that the due and just accompt may from time to time be kept and made to Us our heirs and successors of the monies that shall arise and accrue to Us our heirs and successors by reason of the said allowances rates and payments to Us our heirs and successors to be made and yielded in manner and form aforesaid for all the salt [disposed of &c. as aforesaid], We will be pleased to assign and appoint some fit person or persons to be our Surveyor or Surveyors of all and every the said saltworks, which said Surveyor or Surveyors or his or their deputy or deputies lawfully deputed under his or their hands and seals is or are to be made privy and acquainted with all such salt and with the several



quantities of such salt as shall from time to time be made sold and disposed of, both for home expenses and also for fishermen and for fishing uses and voyages by the said Incorporation or by the said [*Murford* and *Hanworth &c.*] or by any other the person or persons aforesaid respectively :

And to that end and purpose that books shall be kept as well by the said Incorporation and other the person and persons aforesaid respectively as by the Surveyor or Surveyors to be by Us our heirs and successors so named and appointed as aforesaid or by his or their deputy or deputies, wherein shall be from time to time set down all such salt and the several quantities of all such salt particularly distinguished [&c. as above], which said books shall be mutually and interchangeably from time to time subscribed by the hands of the lawful deputies and assigns of the said Incorporation and by the hands of other the said person and persons aforesaid respectively and by the said Surveyor and Surveyors [or their deputies &c.] upon every three months' making selling or disposing of the said salt as aforesaid :

And they the said [parties as above] do covenant promise and grant to and with Us our heirs and successors by these presents that they and every of them respectively as aforesaid shall and will from time to time hereafter sell vent and utter the said salt by them made and to be made as aforesaid at moderate and reasonable rates and prices to the subjects of Us our heirs and successors :

Although express mention &c.

In witness whereof etc. witness our self at Westminster the xxv day of May

*per breue de priuato sigillo.*

## LONDON SOAPMAKERS <sup>1</sup>

(Patent Rolls, 13 Car. I., pt. xxxix.)

CHARLES by the Grace of God King of England Scotland France and Ireland Defender of the Faith &c. To all to whom these presents shall come, Greeting :

*Whereas* divers and sundry persons under no government have made bad and unserviceable soap without any lawful warrant and in secret and obscure places to the great deceit and damage of our loving subjects,

<sup>1</sup> See Introduction, *ante*, pp. lxxv.-lxxviii., and Charter of Westminster Soapmakers, at p. 136.

*We*, minding to provide for the prevention and reformation of the said deceit and abuses for the time to come, have thought fit by the advice of our Privy Councillors to incorporate into one body politic sundry meet persons of this our Realm such as have been exercised and trained up in the said trade of making of soap, who being invested with power and authority from Us may take care for the regulation of the said trade hereafter in a just and orderly way without deceit to our people and for the good government of all the members of the said body,

*Know ye therefore that We*, of our especial grace certain knowledge and mere motion, have willed constituted ordained granted and declared, And by these presents for Us our heirs and successors do will constitute [&c.] that there shall be for ever hereafter within our Realm of England and Dominion of Wales one society body politic or corporate of Soapmakers for ever to endure in deed fact and name by the name of **Governor Assistants and Commonalty of the Society of Soapmakers of London**, to have continuance and succession for ever :

And, for the accomplishment of our will and pleasure in the premises, We do by these presents for Us [&c.] grant will ordain and appoint our wellbeloved subjects *Edward Bromfield*, now Lord Mayor of our City of London, *Thomas Overman* Esquire, *Edmund Whitwell*, *John Revell*, *Lawrence Whitwell*, *Symon Weedon*, *Edwyn Griffin*, *John Hayes*, *Richard Hynde*, *John Hardwicke*, *Josua Phinies the Elder*, *James Baker*, *Richard Cox*, *Jonathan Mott*, *Thomas Woodstocke*, *Thomas Moncke*, *William Hubbersley*, *Josua Phinies the Younger*, *Stephen Harrison*, *Robert Barefoote*, and *Anthonie Whitwell*, soapmakers, and all such other persons as being soapmakers within this our Realm of England and Dominion of Wales shall be admitted into the said Society in such manner as hereinafter is expressed, and their sons, and also their apprentices having been bound and served seven years at the least to the said trade, shall for ever be one society and body politic and corporate in deed and in name by the name [aforesaid] :

[To be fully corporate, with perpetual succession and power in law to have purchase and dispose of manors rectories messuages lands &c., goods and chattels &c., in fee or for terms &c. ; power to sue and be sued &c., and have a common seal] :

[A Governor to be elected ; *Edward Bromfield* to be first Governor for one year and then till further election ; a Deputy-Governor, who must be one of the Assistants ; *Thomas Overman* to be first Deputy and an Assistant for term as above ; eight other Assistants ; *Ed. Whitwell*, *John Revell*, *Lawrence Whitwell*, *Simon Weedon*, *Edwin Griffin*, *John Hayes*, *Ric. Hinde* and *John Hardwick* to be first Assistants ; Assistants



to continue in office for life unless amoved for some just and lawful cause]:

[*Bromfield* to take] his corporal oath upon the Holy Evangelist [for due execution of office] before any one of our Masters of our Court of Chancery for the time being, [power to administer oath without further warrant; all Deputies and Assistants to take oath before the Governor; power to administer oath]:

[*Joshua Phinies the Elder, Jas Baker, Ric Cox, Jona than Mott, Thos Woodstock, Thos Monck, Wm Hubbersley, Joshua Phinies the Younger, Stephen Harrison, Robt Barefoot and Anthony Whitwell*] shall be the first and present Commonalty of the Society; [to take oath to observe the Society's ordinances; power to Governor to administer oath]:

[The Society shall] admit and receive into their said Society and make free of the same all and every person and persons not being aliens as have heretofore used the said trade by the space of seven years at the least or which shall be bred up and exercised in the said trade of soapmaking and have been and shall be apprentices unto and served by the space of seven years or more in the said trade or be the sons of Freemen of the Society aforesaid, unless the [Society or a majority] shall have some reasonable and just cause to the contrary,<sup>1</sup> The same sons of Freemen so to be hereafter admitted not being under the age of one and twenty years, and the same other persons that have been or shall be apprentices and served as aforesaid and so to be hereafter admitted not being under the age of four and twenty years, so as every of the said persons so to be admitted shall first desire to be made free of the said Society and shall offer and pay unto the said Society for the time being at the time of such his admittance such reasonable fine or sum of money as the [Society or a majority assembled at any Court duly appointed] shall require and think fit to accept of them, the same not exceeding the sum of thirteen shillings four pence for every of his or their admittances on that behalf:

[No one now or hereafter free of the Society shall] make or cause to be made all or any of his apprentices using or exercising the said trade of soapmaking free of our City of London before or until he shall be first made free of the said Society of Soapmakers, upon pain of forfeiture of five and twenty pounds of lawful English money for every such apprentice which shall be so made free of our said City of London as aforesaid:<sup>2</sup>

<sup>1</sup> See note on the statute 5 Eliz. c. 4, above, p. 142. The Society had its Charter called in question because of by-laws which it made in respect of apprentices. See

*John Hayes et al. v. Edward Harding et al.* (1656), Hardres, Rep. 53 (*ante*, p. lxxviii.).

<sup>2</sup> Cf. the converse provision, *ante*, pp. xxii. (16), xli. (9).

[All such sums paid for admittance] shall from time to time be employed and bestowed to and for the use and behoof of the said Society for the time being for and towards the discharging and defraying of the charges debts and moneys as well heretofore sustained grown or taken up or hereafter to be sustained [&c.] for the maintenance support and defraying of the necessary and reasonable charges of the said Society and for the relief and sustenance of the poor of the said Society according to the good discretion of the [Society or a majority]:

[Power to meet yearly in London or in Surrey or Middlesex, on the Thursday after the feast of S. Philip and S. Jacob and to elect an Assistant to be Governor for a year &c.; then to elect] one of the Assistants of the said Society abiding and dwelling within our said City of London or the liberties thereof or within our Borough of Southwark<sup>1</sup> [to be Deputy for a year &c., and to elect Assistants up to nine in number; all these to take corporal oath before the late or new Governor, &c.; power to replace officers dead or amoved]:

[Further grant to the Society] that it shall and may be lawful for them and their successors by them their agents and servants to use and exercise the art or mystery of making of soap, and from time to time and at all times forever hereafter to make and work and cause to be made and wrought all and all manner of soap whatsoever according to the art or mystery now or at any time heretofore had or used or by or according to any other good way that shall hereafter at any time or times be found out or invented either with the oils or materials now or heretofore used or with any other meet materials whatsoever, so as the same soap shall be good merchantable and fit for the use of our loving subjects, and also that they [the Society &c.] shall and may at all times hereafter at their will and pleasure vent sell and dispose of the same soap so by them to be made at reasonable and moderate rates and prices to any person or persons whatsoever in such quantities as to them and their successors agents and servants shall seem expedient:

[Power to assemble within the aforesaid limits and hold Courts for the Society's business], and that also it shall and may be lawful to and for the Governor for the time being or his Deputy with five or more of the Assistants of the said Society to have use and exercise full power and authority to rule order and govern all and singular the Commonalty and members of the said Society:

[Power to make laws &c.] for the good government order and rule of the said Society of Soapmakers, and for the well ordering of the soap trade throughout our Realm of England and Dominion of Wales and Town of Berwick, and of all persons intermeddling with or by any

<sup>1</sup> Cf. *ante*, p. 111.



means exercising the making of soap for sale, [power to execute and revoke such laws, to provide penalties by imprisonment &c., and levy fines without impeachment or account; all such laws &c. We command to be observed if not] contrary or repugnant to the laws and statutes of this our Realm nor contrary to the ancient and lawful customs and privileges of our City of London :

And forasmuch as the abuses heretofore used and practised in the said soap trade by undue makers and other ill-disposed persons and otherwise cannot be prevented discovered and punished and the said trade well ordered and governed without the great travail and expense of the [Society] and the necessary service of divers ministers and officers of the said Society, whose charges and expenses must necessarily be defrayed and borne out of the general stock of the said Society, And for that the said [Society] are not well endowed with any lands or other révenues nor have other ways or means to do the same, We further will and by these presents for Us our heirs and successors do grant unto the said [Society] that the Governor of the said Society for the time being or in his absence the Deputy Governor with five or more of the said Society for the time being together with the consent of the greater part of the Commonalty assembled at any General Court may and shall have full power and authority from time to time at their will and pleasure to assess set limit and levy such reasonable and convenient sums upon the Governor Assistants Commonalty and members of the said Society as to them shall seem requisite and convenient for the sustentation of the necessary and reasonable stipends and other things of the said Society in the execution of the service and charges thereby committed to them, Wherein We will appoint and ordain for Us our heirs and successors that once at the least in every year a just and true account of the disbursements thereof be made and presented to be viewed examined and allowed by three of the Assistants [nominated by a majority in a General Court], whereby it may from time to time appear how and in what manner they have expended the same in and about the necessary affairs and businesses of the said Society and not otherwise :

And further We will and for Us our heirs and successors by these presents do grant to the said [Society] that if any of the Society which shall use the trade art or mystery of making or selling soap shall refuse to pay or shall not pay the said sum or sums of money so to be assessed or set upon him or them as aforesaid, or shall offend or do against any law statute order or ordinance hereafter to be made in manner and form aforesaid, or shall refuse to pay any fine or fines forfeiture or forfeitures [&c. so assessed or appointed &c.], that then and so often it shall be lawful to and for the said [Society or majority] such obstinate refusers

offenders and ill-doers to chastise and correct by fine or amerciamment or other reasonable punishment according to the quality of the fault or offence as by the Society [or a majority &c.] shall be ordered and adjudged, And that then and so often it shall be lawful for [the Governor &c.] by the officer or officers of the said Society in that behalf by the said [Society or majority &c. duly appointed] to enter into any house warehouse or other place where any goods or wares of such offender or offenders so refusing to pay or not paying [&c. as above, may be], and the same goods or wares to distrain and the distress or distresses there found to take seize and carry away detain and keep until the sum or sums of money fines penalties and amerciaments and every of them shall be satisfied contented and paid to the said Governor or his Deputy for the time being for the use of the said Society, which said Governor or Deputy Governor We do for Us our heirs and successors hereby appoint and authorise to receive the same according to the true intent and meaning of these presents :

And to the end the abuses crept into the said trade may be the better prevented discovered and reformed, [four or more Assistants or other members to be yearly chosen] who shall be Searchers for the year following ; [*Hayes, Hardwick, Baker and Mott* nominated first Searchers ; power to appoint four or more yearly by writing under the common seal ; power to them to] search view and try all and all manner of soap made for soap and all materials for the making of soap to or to be in the hands of any soapmakers whatsoever [in England Wales and Berwick] and all weights and measures used by all or any the soapmakers or whereby the same soap is or shall be bought or sold as well in fairs and markets within our City of London and the liberties thereof as in all other place and places whatsoever [in the limits aforesaid], and shall and may seize take and carry away all and all manner of soap made for sale and materials for making thereof which they shall find or suspect to be false or corrupt or to be falsely or corruptly made and all weights and measures whereby they or any of them are bought or sold as aforesaid and which the said searchers for the time being [or their deputies &c.] shall suspect to be deceitful or false, And in the presence of the owner or owners of the same or of such person or persons in whose custody or possession the same shall be found, if they will upon warning or notice be present, and if they will not be or be not present then in public place whither any other person or persons may lawfully resort, shall and may try the defaults of the same soap [materials weights measures &c.], And if upon trial of the said soap [&c.] the same or any of them shall be found false or faulty, that then it shall and may be lawful to and for the said Searchers [or their deputies &c.] then and there or in some other



public place near adjoining to burn break or otherwise destroy or cause to be burned [&c.] the said soap [&c.] so found false or faulty ; [Searchers to take oath &c.] :

And for that the trade of making of soap can never sufficiently be secured from such deceits corruptions and falsities as either have been or may be practised in the making of soap until such persons using the said trade of making of soap to sell shall be made subject to order and government in that trade, We do therefore will command and ordain, and by these presents for Us our heirs and successors do grant to the said [Society], that no person or persons whatsoever our natural born subjects denizens or strangers not being free of the said Society shall from henceforth use or exercise the art trade or mystery of soap making or make any soap to sell within our said City of London or liberties and suburbs thereof or elsewhere within our Realm of England Dominion of Wales and town of Barwick, except he or they shall be first admitted and allowed by the Governor of the said Society or his Deputy or five or more of the Assistants of the said Society for the time being by writing under the common seal of the said Society to exercise and use the said trade [&c.], upon pain to forfeit to Us our heirs and successors all such soap as shall be so made contrary to the true meaning of these presents, The one moiety [to go to the Crown, the other to the Society] :

[All persons admitted to the Society shall upon admittance take oath for] their good demeanour in the Society aforesaid and for the performance of all the lawful orders and ordinances made and to be made for the good government of the said Society and the true making of soap ; [power to administer the oath] :

[Power to remove and expel for disobedience to laws &c., or other lawful cause] :

[All Mayors bailiffs &c. to be aiding and assisting &c.] :

[Power to have and purchase &c. manors lands &c. meadows tithes &c., not holden of Us in chief or held of Us or of others by knight service, so as the same do not exceed £100 clear annual value], without suing forth of any writ of *ad quod dampnum*, and notwithstanding the Statutes of Mortmain or any other Act ; [power to our subjects to grant the same to the Society] :

Although express mention &c.

In witness &c. witness ourself at Westminster the xxiind day of May,  
*per breue de priuato sigillo.*

SOUTH AND NORTH SHIELDS SALTMAKERS<sup>1</sup>

(Patent Rolls, 14 Car. I., pt. xlv.)

CHARLES *by the Grace of God* &c. To all to whom these presents shall come, Greeting :

*Whereas* our wellbeloved and faithful subject *Thomas Horth*, for the redress of divers inconveniences as well in the excessive prices of salt as otherwise concerning the making and venting of salt within divers parts and places of this our Kingdom, hath humbly made a proposition unto Us in the name and on the behalf of himself and divers other persons for the making of salt [&c.<sup>2</sup>]:

Which proposition having been several times heard [&c.\*]:

*Now know ye that We*, for the better accommodation [&c.\*], and to enable and invest the said *Thomas Horth* and other the said undertakers with such powers [&c.\*], *of our especial grace certain knowledge and mere motion* We will that forever hereafter there be and shall be one Society of Saltmakers reduced into one body politic and corporate who shall have the making and vending of salt in all our ports and places from Barwick to Poole and Weymouth, they and their members with the Isle of Wight being also included :

And therefore We will and ordain that the said *Thomas Horth* and *Edward Nuttall*, *William Buttolph*, *Samuel Mott*, *Nathaniel Strickson*, *Robert Seaman*, *James Cole*, *William Chapman*, *George Tewke*, *Matthew Matsyn*, and *John Keyner*, and such others in manner hereafter expressed to be chosen and admitted into this Society, shall be [incorporated &c.\*] by the name of **Governor Wardens Assistants and Commonalty of the Society of Saltmakers at the South and North Shields in the Counties of Durham and Northumberland in the Kingdom of England** [&c.].<sup>3\*</sup>

And that of them there shall be one Governor two Wardens six Assistants and so many others of the said Society as the Governor Wardens and Assistants shall hereafter think fit to appoint to the said place of Assistants :

[Perpetual succession ; power to hold lands, chattels &c. and dispose of same, to sue and be sued]:

<sup>1</sup> See Introduction, *ante*, pp. lxxiii.-lxxiv., and previous charter, *ante*, pp. 142-8, and compare the Yarmouth grant (*ante*, p. 148).

<sup>2</sup> As above, p. 143, omitting the words 'the same salt to be made of sea-water.'

<sup>3</sup> The old title is varied by the introduction of 'Wardens.' The old constitution is varied in the following clause. Deputy Governors being omitted.

\* As in the former charter, *ante*, p. 143.



[Officers nominated ;—Governor, *Horth* : Wardens, *Nuttall* and *Buttolph* : Assistants, *Mott*, *Strickson*, *Seaman*, *Cole*, *John Duke* and *John Eldred* : Governor to continue till January 10th, 1639, or further election ; Wardens and Assistants similarly unless amoved for just cause ; Governor to have casting vote ; Governor Wardens or Assistants may nominate under seal proxies to vote for them] :

[Provision for common seal, and for meetings ; \* annual meeting on Jan. 10th or other agreed day ; power to make statutes &c. and to arrange for yearly payment of sums per wey<sup>1</sup> of salt made and sold by the Society, as agreed in an Indenture between Us, the Company, *Horth* and others, bearing date with these presents :<sup>2</sup> power to enforce the statutes, not being repugnant to English law] and our prerogative royal :

[*Horth* to take oath before one of our Masters in Chancery : other provisions for oaths] : \*

[Power to appoint officers and ministers &c.] : \*

And further our express will and pleasure is and for the better advancement of the said work [&c.\* We command and charge all persons whatsoever that they] do not hereafter erect or set up any more salt pans or saltworks than are now already erected in any port or place whatsoever between the said towns of Barwick Pool and Weymouth or Isle of Wight, they and their members being included, the said ports and places being by these presents specially limited and appointed to the said Society, for the making and vending of salt without the allowance and consent of the said [Society] for the time being or the greater part of them, And that no person or persons whatsoever hereafter shall make and sell or cause to be made and sold any salt of what kind soever within the said limits hereinbefore mentioned, unless he and they shall first become members of the said Company or shall compound with the said [Company] :

Nevertheless our intent and meaning is, and We do hereby for Us our heirs and successors declare the same to be, that it shall be lawful and free for any person or persons whatsoever now having any salt pans erected within the limits aforesaid to be admitted into the said Society of Saltmakers, if he or they shall desire the same, upon reasonable and moderate fine or fines not exceeding thirteen shillings and fourpence to be paid for any such persons' admittance, And therefore We do for Us our heirs and successors ordain will and require the said [Society] for the time being to admit and receive into their said Society all and every such person and persons having now any salt pans erected within

<sup>1</sup> As to the wey, see *ante*, p. 145 (2).

\* As in former charter, *ante*, pp. 144-5,

<sup>2</sup> *Patent Rolls*, 14 Car. I., pt. xlv. See 147.

Introduction, *ante*, p. lxxiv. (8).

the limits aforesaid as shall desire the same, upon such reasonable fine [as aforesaid], the said person and persons so to be admitted first giving sufficient security to the said Society to answer unto Us our heirs and successors three shillings and fourpence for every wey of salt Shields measure of all salt by him or them made and sold for inland use, and to conform and be obedient to the meet orders of the said Society for the well regulating and supporting the said trade :

But in case the said Society shall refuse to admit any such persons or persons now having salt pans erected within the said limits upon such offer of fine and conformity as aforesaid, Then We will and declare that it shall be lawful for such person or persons freely to use his or their salt pans and to make and vend the salt by him or them therein made in any port or place within the limits aforesaid without impeachment, paying unto Us our heirs and successors the said several duties of ten shillings and three shillings and fourpence as aforesaid, anything herein contained to the contrary notwithstanding :

And for the better enablement of the said Society to answer Us the several duties or sums of money aforesaid, We do for Us our heirs and successors declare our royal will and pleasure to be that no person or persons whatsoever other than the said Society shall by Us our heirs or successors be licensed or dispensed with to import or bring any foreign salt into any the ports or places within the limits aforesaid to be there sold or put to sale discharged or freed of and from the impost or duty of forty eight shilling six pence upon every wey of salt by Us now laid or hereafter to be laid upon all foreign salt which shall be imported from time to time from foreign parts into any ports or places within the limits aforesaid :

Willing and hereby for Us our heirs and successors commanding that none of our Customers Comptrollers Farmers of our Customs Surveyors Searchers Waiters or other the officers and ministers of any of our ports within the limits aforesaid shall permit any person or persons whatsoever other than the said Society or their agents or deputies to enlade any foreign salt to be imported into any places within the limits aforesaid before the said impost shall be duly answered and paid or otherwise compounded for and so certified to the officers of our said port by the said Society or their deputies :

Nevertheless our intent and meaning is, and We do for Us our heirs and successors declare the same to be, that it shall be lawful for the said Society their deputies factors or agents at any time or times hereafter and from time to time to import and bring in or cause to be imported or brought in any foreign salt into any the ports or places within the limits aforesaid, and there to utter and vend the same freed and



discharged of and from the payment of the said impost or duty of forty eight shillings and six pence the wey or any part thereof, The said Society or their deputies upon such importation paying only to Us our heirs and successors such customs and other duties as are limited and appointed by our last book of rates :

And for the better support of the said Society in their vending of the salt by them made within the limits aforesaid, We will ordain and appoint that for and during the term of ten years from the Feast of the Birth of our Lord God last past there shall not be imported or brought into any the ports or places within the limits aforesaid of Scottish salt above the quantity of eight thousand wey in any one year, And the same to be accompted and measured after the measure now used at the Shields, For which said Scottish salt We will that there shall be answered and paid for the use of Us our heirs and successors at the time of the delivery of the same salt the like duty or sum of ten shillings for every wey thereof of Shields measure as there is now to be answered Us by the said Society for all salt by them to be made and sold within the limits aforesaid :

Of which said yearly proportion of eight thousand wey of Scottish salt to be yearly imported as aforesaid We will and declare that all such Scottish salt as is now in any of our ports within the limits aforesaid unsold or undelivered or from henceforth shall be brought by them into any ports or places within the said limits shall be reputed and accounted as part and parcel of their first year's portion :

And, to the end it may appear to the said Society what quantity of Scottish salt shall be from time to time imported, We will and require that none of the said Scottish salt hereafter to be imported into any places within the limits aforesaid shall be landed or unladen without certificate first had from the said Society or their deputies, so as they deliver such certificates freely upon request in that behalf :

And the said Governor Wardens Assistants and Commonalty of the Society of Saltmakers do for them and their successors covenant promise and grant to and with Us our heirs and successors by these presents That they and their successors shall and will well and sufficiently supply and furnish our subjects of this our Realm within the limits aforesaid from time to time during the term of ten years to be accounted [as aforesaid] with good and merchantable salt to be delivered at Shields at moderate rates and prices and at no time or times to exceed forty six shillings and eightpence the wey of Shields measure, after ten gallons of Winchester measure to the bushel and forty bushel thereof to the wey according to the usual measuring at the Shields, for the use of the fishery sea expense, and not to exceed fifty six shillings eightpence the same

wey for inland expense, unless, upon cases of extremity appearing upon due examination and proof thereof made unto Us our heirs or successors or unto the Lords and others of the Privy Council of Us our heirs or successors for the time being We shall be pleased to enlarge or increase the said prices :

[Members and workmen of the Society not to be interrupted &c. by Us, our officers &c.]: \*

[The said saltworks &c. We hereby confirm &c. to the Society], Notwithstanding any encroachment upon the sea coast or upon any rivers within the limits aforesaid in any place or places within the high water and low water mark by the said [Society] or any member thereof [by erection of works &c. which must necessarily be so situated]: \*

And likewise *of our more abundant grace certain knowledge and mere motion* We have given and granted, and [hereby &c. give &c.], to the [Society], and do express our royal will and pleasure to be, That as well the said Governor Wardens and six of the senior Assistants for the time being as all and every the workmen labourers and servants of the said Society necessarily attending the saltworks and employed thereabout shall be exempted and freed during the continuance of such their employment of and from being pressed or to serve either by land or water but by the consent [of the Society or by our command or order of Privy Council &c.]: \*

And We do further *of our more especial grace certain knowledge and mere motion* give and grant full power and authority unto the said [Society] that it shall and may be lawful for them or any of their deputies from time to time with the assistance of a Constable or other lawful officer to enter and go into any saltworks garners or storehouses of or belonging to the said Society or any member or members thereof or any others making or importing of salt within the limits aforesaid to see what quantities of salt are or shall be there made or imported and to require and receive the several duties to Us payable as aforesaid, And also to search and seize all foreign salt imported and landed within the limits aforesaid before the said duty or impost of forty eight shillings six pence the wey shall be duly paid or compounded for as aforesaid, The one moiety of which said salt so accruing to Us our heirs or successors by means of such seizures We do hereby give and grant unto the said [Society] to their own proper use and benefit without any account or other thing to be rendered made or done for the same moiety :

[The Society may assess such sums upon the members as are thought necessary to support the common expenses]:

\* As in the former charter, *ante*, pp. 146-7.



[Justices of the Peace, Mayors, Sheriffs &c. to be aiding &c. upon request, upon pain of our displeasure and legal punishment &c.]:

Although express mention &c.

In witness whereof &c. witness our self at Westminster the xith day of March.

*per ipsum Regem.*

## AFRICAN COMPANY.<sup>1</sup>

(Patent Rolls, 12 Car. II., pt. xxi.)

CHARLES THE SECOND *by the Grace of God King of England Scotland France and Ireland, Defender of the Faith, &c.*, To all to whom these presents shall come, Greeting;

*Whereas* all and singular the regions countries dominions territories continents coasts and places now or at any time heretofore called or known by the name or names of Guinney and Binney or by either of them or which are or have been reputed esteemed or taken to be parcel or member of any region country dominion territory or continent called Guinney or Binney, and all and singular ports havens rivers creeks islands and places in the parts of Africa to them or any of them belonging, and the sole trade and traffic thereof, are the undoubted right of Us our heirs and successors and are and have been enjoyed by Us and our predecessors for many years past as in right of this our Crown of England,

*And whereas* for the due establishing of an orderly traffic and trade of merchandise into those parts several Letters Patents have been heretofore granted as well in the time of our late dear Father of blessed memory as of our late Royal Grandfather King JAMES,<sup>2</sup> with several powers privileges and authorities therein mentioned tending to the advance and increase of the said trade, which however the same hath of late been interrupted may by God's blessing upon a diligent and effectual prosecution be brought to a greater perfection than heretofore it hath been,

*And whereas* our said late dear Father did by his Letters Patents under the Great Seal of England bearing date at Westminster the five and twentieth day of June in the seventh year of his reign<sup>3</sup> for the considerations therein mentioned grant and demise all the said territories continents coasts and premises according to the extents and limits of the

<sup>1</sup> See Introduction, *ante*, pp. xliv.-xlviii.

A previous charter is printed above, p. 99; subsequent charters follow at pp. 177. 186.

<sup>2</sup> Printed, *ante*, p. 99.

<sup>3</sup> *Patent Rolls*, 7 Car. I. 1, pt. xiv. (a thirty-one years' lease, see *ante*, p. xlv.).

places therein specified and the sole trade and traffic thither from thence and in those parts unto *Sir Richard Young Knt* and *Baronet*, *Sir Kenelm Digby Knt*, *George Kirke Esquire*, *Humfrey Slaney*, *Nicholas Crispe* and *William Cloberry*, their executors administrators and assigns, from the date of the said Letters Patents for and during the term of one and thirty years from thence next ensuing and fully to be complete and ended upon such conditions clauses and reservations as in the said Letters Patents are contained, whereunto relation being had it doth and may more fully and at large appear,

We, taking into our royal and princely consideration how much the re-settlement of the trade and traffic into the parts aforesaid may and will redound to the good of our service and the honour and enriching of this our Kingdom of England by employing of good store of mariners and shipping and venting of divers of our home manufactures, have for the encouragement of the persons hereafter named, who have undertaken so hopeful an enterprise and must be at great costs and charges likewise to go through with the same, *of our especial grace certain knowledge and mere motion* given and granted, and by these presents for Us our heirs and successors do give and grant, unto our right dear and entirely beloved Brother *James Duke of York and Albany*, our High Admiral of England, and to our most dear and entirely beloved Sisters the most illustrious *Princess Royal, Maria Princess of Aurange*, and most illustrious *Princess Henrietta*, to our right dear and entirely beloved Cousin the most illustrious *Prince Rupert*, Count Palatine of the Rhine, Duke of Cumberland, our right trusty and right wellbeloved Cousins and Counsellors *George Duke of Buckingham*, *George Duke of Albemarle*, *James Marquess of Ormond*, Steward of our Household, to our right trusty and right wellbeloved Cousins *Phillipp Earl of Pembroke and Mountgomery*, *Henry Earl of St. Albans*, to our right trusty and right wellbeloved Cousins and Counsellors *Edward Earl of Sandwich*, and *John Earl of Bath*, to our right trusty and right wellbeloved Cousin *Thomas Earl of Ossery*, to our right trusty and wellbeloved *George Lord Berkley*, *William Lord Craven*, *John Lord Berkeley*, and *Charles Lord Brandon*, to our right trusty and wellbeloved Counsellors *Sir George Carterett*, Vice-Chamberlain of our Household, to our right trusty and wellbeloved Counsellor *Collonell Charles Howard* and to our trusty and wellbeloved *William Coventry Esquire*, *Sir Charles Sidley Baronet*, *Sir John Warner Bart.*, *Sir Charles Berkeley Knt*, *Henry Jermyn Esquire*, *William Legg Esq.*, one of the Grooms of our Bedchamber, *John Denham Esq.*, Surveyor-General of our Works, *Sir Anthony de Martes*, *Sir Ellis Leighton*, *Sir Edward Turner, Knts*, *Edward Gregory*, *Richard Nicholls* and *Cornelius Vermuyden*, Esquires, their executors administrators



and assigns, All and singular the regions countries dominions territories continents coasts and places lying and being within the limits and bounds hereafter mentioned, that is to say, beginning at Cape Blance lying in twenty degrees of northerly latitude and extending from thence to Cape de Bona Speranza lying in thirty four and a half southerly latitude or thereabouts with all the islands near adjoining to those coasts and comprehended within the regions aforesaid,<sup>1</sup> Which regions [&c.] heretofore called or known by the name of Guinny Bynny and Angola or by some or any other name or names [or reputed part thereof as above] and all and singular ports [&c. as above], To have and to hold all the said regions [etc.] aforesaid and all other the premises in Guinny Bynny and Angola aforesaid and within the degrees aforesaid to our said [Brother *Duke of York* and other persons above-named] their executors administrators and assigns from the making of these our Letters Patents if the said recited grant and demise to the said *Sir Richard Young* [and others aforesaid] be void and determined :

And if otherwise the said grant and demise to them made as aforesaid be not void and determined, then to have and to hold all and singular the said regions [&c.] from the expiration forfeiture surrender or other determination of the said recited grant or demise to the said *Sir Richard Young* [and others] for and during the term and unto the full end and term of one thousand years, Yielding and rendering therefore unto Us our heirs and successors two elephants whensoever We our heirs or successors or any of them shall arrive land or come into the dominions regions [&c.] before mentioned or any of them :<sup>2</sup>

Nevertheless our will and pleasure is, and We do hereby declare the true intent and meaning of these presents to be that this our present grant and demise of the regions [&c.] aforesaid and all the benefit commodity profit and advantage made and to be made and gotten out of the same or by reason of the term aforesaid shall be and shall be interpreted to be in trust and for the sole use benefit and behoof of the Company of Royal Adventurers into Africa hereafter mentioned and after in and by these presents incorporated or mentioned to be incorporated :

And therefore for the setting forward and furthering of the trade intended in the parts aforesaid and the encouragement of the undertakers in discovering the golden mines and settling of plantations there, being an enterprise so laudable and conducing to so worthy an end as the increase of traffic and merchandise wherein this nation hath been

<sup>1</sup> These limits, corresponding to those in the grant of Charles I., were afterwards extended; see *post*, p. 179.

<sup>2</sup> Cf. *ante*, p. xxvii. (2).

famous, of our further and more ample grace and favour certain knowledge and mere motion do will ordain constitute appoint give and grant to our said dearest Brother *James Duke of York* [and other persons above-named], that they and all such other as they shall think fit and convenient to receive into their Company and Society to be traders and adventurers with them to the said countries shall be one body politic and corporate of themselves in deed and in name by the name of **The Company of the Royal Adventurers into Africa:**<sup>1</sup>

And them by that name [We incorporate, with perpetual succession, and power to take, purchase &c., plead and be impleaded &c. and have a common seal\*], which seal our will and pleasure is shall be engraven and set forth in manner and form following, that is to say, On the one side an elephant supported by two blackmoors, and on the other side the image of our Royal Person, without any further warrant [&c.]:\*

And for the [better government of the Company &c.] six Agents [to be appointed, to have direction of voyages &c. sale of merchandise &c. and management of trade; provision for rules, ordinances &c.]:

[*Philip Earl of Pembroke and Montgomery, William Lord Craven, Sir George Carterett, William Coventry, Sir Ellis Leighton, and Cornelius Vermuyden* to be the six Agents till they die or be removed; provision for oaths; power to remove the Agents and fill their places]:

[Power] for the said Company or the major part of them publicly assembled, whereof three or more of the Agents to be of the number, [to appoint factors under-officers servants &c.; provision for oaths, and for replacing officers in case of death or misbehaviour]:

[Power to assemble, make and execute laws, impose punishments, fines to be levied to use of Company]:

And We do moreover for Us our heirs and successors give and grant unto the said Company and their successors, That it shall and may be lawful to and for any person or persons of the said Company or their successors and every of their executors administrators and assigns and every of them to grant and assign over to any other person or persons whatsoever their or any of their estate or estates interest or interests or any share or shares part or parts of their or any of their estates or interests by these presents granted or mentioned to be granted or any part thereof together with all or any advantage benefits and profits thereof in any wise:

<sup>1</sup> The company being entrusted to six agents without a governor (see *ante*, p. xli., and the later re-arrangement for supplying the necessary means of government, *post*, pp. 178–80), the corporate name is neuter

singular instead of the more usual masculine plural (cf. Introduction, *ante*, pp. cxxxiii.–cxxxv., and examples, *post*, pp. 179, 189, 198, 250, 257.

\* As in previous grant, *ante*, pp. 100–1.



And that all and every such assignee and assignees shall and may from and after the making of any such assignment or assignments have full power liberty and authority according to their several and respective interests to trade merchandise and traffic into and from the said rivers lands dominions and places aforesaid in as large full and ample manner and form to all intents and purposes aforesaid as the person or persons who made such assignment or assignments or any of them may might should or ought to have done by virtue of these our Letters Patents and otherwise howsoever :

[Power to the Company to set to sea so many ships &c., with ordnance &c., and to enjoy the whole sole trade to and from the said regions ; \* to set to sea ships &c. for further discovery, paying customs &c. ; the rivers &c., not to be visited by any others of our subjects ; \* and therefore We prohibit our subjects &c. to trade thither] or adventure to traffic into or from the said rivers [&c.] or any of them or to import any redwood elephants' teeth hides wax gums grains or any other of the commodities of that country from any part or places whatsoever into any of our Kingdoms or Dominions other than the said Company [&c. unless with written licence under seal of the Company, under penalties ; \* power to arrest offenders, ships, goods &c. ; We will not license any person to trade thither without the Company's liking ; Power to the Company to admit members &c., sons and apprentices at twenty shillings \*] :

*Nevertheless* it is our will and pleasure and We do hereby for Us our heirs and successors declare our intent and meaning to be that whensoever We our heirs or successors shall think fit at any time or times to come in as sharer in this adventure and to join a stock with the said Company in the trade aforesaid, That then We our heirs or successors shall be accordingly admitted partner and sharer in the said trade according to such a proportion of money as We our heirs or successors shall put into the stock,<sup>1</sup> *Provided always* the said share do not exceed a sixteenth part of the whole, and that We our heirs and successors do consent and submit to pay and bear a full sixteenth part of all charges incident to the same :

And We do therefore *of our more especial grace certain knowledge and mere motion* for Us our heirs and successors grant unto the said Company and their successors that they the said Company and their successors shall and may have the ordering rule and government of

\* As in the previous grant, see *ante* pp. 103-5.

<sup>1</sup> See the misgivings of the East India merchants in a similar case, *ante*, p. li.

The State Papers show that in June 1661 the King put in £90 'as additional adventure' and £250. See *post*, p. 181 (2).

all such Plantations as shall be by them at any time hereafter settled within the parts of Africa aforementioned, And do by these presents for Us our heirs and successors grant unto them full power licence and authority to name and appoint Governors from time to time in the said Plantations, which said Governors shall and by these presents We do for Us our heirs and successors give to them full power and authority to raise arm train and muster such military forces as to them shall seem requisite and necessary and to execute and use within the said Plantations the law called the martial law for the defence of the said Plantations against any foreign invasions or domestic insurrections or rebellions, The sovereign right power and dominion over all the said Plantations to be at any time settled in the parts aforesaid to Us our heirs and successors always reserved : <sup>1</sup>

And further We will and it is the true intent and meaning of these presents that We our heirs and successors shall have take and receive two third parts of all the gold mines which shall be seized possessed and wrought in the parts and places aforesaid, We our heirs and successors paying and bearing two third parts of all the charges incident to the working and transporting of the said gold, And that the said Company and their successors shall and may have take and enjoy the other third part of all the said gold mines, they [bearing a third of the expense as aforesaid] :

[Our Admirals, Vice-Admirals &c., to be aiding &c.] :

[This grant to be firm, valid, and favourably construed], Any omission uncertainty or defect in these presents or any other cause matter or thing to the contrary in any wise notwithstanding :

Although express mention &c. :

In witness &c. witness our self at Westminster the eighteenth day of December

*per ipsum Regem.*

## AFRICAN COMPANY.<sup>2</sup>

(Patent Rolls, 14 Car. II., pt. xxvii.)

CHARLES THE SECOND, &c., To all to whom these presents shall come, Greeting ;

*Whereas* all and singular the regions [&c.† known] as Guynny Bynny and South Barbary [or reputed to be part thereof, and all African ports

<sup>1</sup> This clause (cf. the first Carolina charter, 1662-3, *ante*, p. lxxxviii.) is followed in the East India charter of 1683 (*ante*, p. lii.).

<sup>2</sup> See Introduction, *ante*, pp. xlv.-xlviii.

Previous charters are printed, *ante*, pp. 99, 172 ; a subsequent charter follows at p. 186.

† As in previous charter, *ante*, p. 172.



&c. thereto belonging and the sole trade thereof are the undoubted right of Us &c.], †

*And whereas* We have by our Letters Patents under our Great Seal of England bearing date the eighteenth day of December in the twelfth year of our reign<sup>1</sup> incorporated the trade and given and granted [the regions therein set out, to have and to hold &c., with the privileges therein mentioned],

*And whereas* all former Patents granted by our Royal Predecessors to any of our loving subjects whatsoever of in or to any of the places aforesaid or the trade thereof are now determined and expired,<sup>2</sup>

And considering how necessary it is to the honour and profit of this our Realm of England that the said trade and also such others as are thereby intended to be granted should be vigorously prosecuted and all the forts buildings and factories formerly directed and settled by this nation within the limits aforesaid maintained and enlarged,

*And whereas* since the granting of our said Letters Patents several other persons have come in and subscribed several great sums of money to be employed in the said trade and Company, and by the general consent and advice as well of the first Patentees as also of those others who have since joined with them it is conceived that there are not such necessary rules authorities powers and jurisdictions for the governing and managing of the said trade and Company in our said recited Letters Patents as are needful for the effectual execution of our royal intentions to make the said trade of the best and most improved benefit to our said subjects and Kingdoms,<sup>3</sup> And therefore by like unanimous consent have surrendered into our hands our said former Letters Patents, which said surrender We have accepted and by these presents do accept,

*Now know ye that We*, in consideration of the said surrender and graciously tendering the encouragement and advancement of the said Royal Company, and to the end they may be the better enabled to maintain and enlarge the trade and traffic into the parts and places in the said recited Letters Patents or hereafter in these presents expressed, have of our especial grace certain knowledge and mere motion given and granted and by these presents for Us our heirs and successors do give and grant unto our Royal Consort *Queen Katherine, Mary the Queen our Mother*, our dearest Brother *James Duke of York*, our dearest Sister *Henrietta Maria Duchess of Orleans*, *Prince Rupert*, *George Duke of Buckingham*, *Mary Duchess of Richmond*, *Edward Earl of Manchester*, *Phillip Earl of Pembroke*, *Henry Earl of St. Albans*, *John Earl of Bath*, *Edward Earl of Sandwich*, *Charles Earl of Carlisle*, — *Earl of Lauderdale*,

† As in previous charter, *ante*, p. 172.

<sup>1</sup> Printed above, pp. 172–7.

<sup>2</sup> See *ante*, pp. xliv.–xlvi., 172–3, 174.

<sup>3</sup> See *ante*, p. 175 (1).

*George Lord Berkeley, William Lord Craven, — Lord Lucas, Charles Lord Gerrard, William Lord Crofts, John Lord Berkley, Thomas Grey Esquire, Sir George Carterett Knt, Sir Charles Sidly Knt, Sir Ellis Leighton Knt, Edward Gregory gentl., Sir Edward Turnor Knt, Sir Anthony de Merces, William Legge Esq., Richard Nicholls Esq., Sir William Davison Knt, William Cutler, Sir James Modiford Knt, Thomas Cullen gentl., George Cock gentl., Charles Porter gentl., Sir John Colliton Knt, John Buckworth gentl., Sir John Robinson Knt, Sir Nicholas Crisp Knt, Sir Richard Ford Knt, Sir William Rider Knt, John Bence, Sir George Smith Knt, Sir John Shaw Knt, Sir Martin Noell Knt, Abraham Bigges gentl., Thomas Povey Esq., Edward Backwell Esq., Matthew Wren gentl., Tobias Rustat gentl., Martin Noell Junior gentl., Henry Johnson gentl., James Congett gentl., John Ashburnham gentl., Edward Noell Esq., James Noell gentl., Francis Meynell gentl., John Cooper gentl., Sir Andrew Rickard, William Harbert Esq., Sir John Jacob, Sir John Harrison, Sir John Wolstenholme, Sir William Wake, Syllas Titus and Peter Proby, their executors and assigns, the regions [&c. within the] bounds hereafter mentioned, that is to say, beginning at the Port of Sally in South Barbary inclusive and extending from thence to Cape de bona Esperanza with all the islands near adjoining to those coasts and comprehended within the limits aforesaid :*

Which regions [&c. and ports, to have and to hold, to our said Royal Consort and others abovenamed, their executors and assigns, for a thousand years, yielding two elephants ; to be held nevertheless in trust for the Company] : †

*And therefore for the setting forward [&c. of the trade], of our further and more ample grace [&c., We incorporate the abovenamed] † by the name of **The Company of Royal Adventurers of England trading into Africa :***

And for the better ordering and governing of the said Company We have given and granted and by these presents for Us our heirs and successors do give and grant unto the said Royal Company that the said Company for the time being shall and may upon summons thereunto by our dearest Brother *James Duke of York* or any three of the other grantees nominated in these our Letters Patents assemble and meet together on or before the five and twentieth day of March next ensuing in such place as to our said Brother or any three of the said grantees shall seem meet, And the said Company or the major part of them so assembled shall and may then and there make choice of a Governor,

† As in previous charter, *ante*, pp. 174–5.



Sub-Governor and Deputy-Governor and twenty-four or thirty-six Assistants as the Company shall think fit : [such officers and Assistants] or any seven when twenty-four or thirteen when thirty-six or the major part of them, of which the Governor Sub-Governor or Deputy Governor to be one, [to be empowered to manage the Company's affairs, and to hold office for one year : power to fill places of those who die or are removed] :

[Provision for a General Court for annual election of officers ; provision for taking of oaths], unless it shall happen such Governor shall be of the Royal Blood and Family and in such case it is hereby declared such Governor shall be exempted from taking the oath aforesaid :<sup>1</sup>

[Power to assemble, administer oath to inferior officers make rules, inflict punishments &c.] :

[Power to members or their representatives †] to grant and assign over to any person or persons whatsoever any of their stock or stocks and the proceed and profit thereof, *Provided always* and for the preventing of all mistakes the said assignment be made in open Court before the Governor Sub-Governor or Deputy Governor and Assistants and there registered and not otherwise,<sup>2</sup> and so as the said party making such assignment be not indebted to the said Company or being indebted to the said Company do give them satisfaction for the same before such assignment be allowed, and that all and every such assignee and assignees shall and may from and after the making of any such assignment or assignments have and enjoy the same rights and benefits as the assignor or assignors had or might have enjoyed :

[Power that the Company may set to sea ships &c. with ordnance &c.] and shall for ever hereafter have use and enjoy all mines of gold and silver which are or shall be found in all or any the places above mentioned,<sup>3</sup> and the whole entire and only trade [to those parts] for the buying and selling bartering and exchanging of for or with any negroes<sup>4</sup> slaves goods wares and merchandises whatsoever to be vented or found at or within any of the Cities [&c. there, any statute &c., notwithstanding] :

<sup>1</sup> Cf. the Royal Fishing Co. charter, *post*, p. 183.

† As in previous charter, *ante*, p. 175.

<sup>2</sup> The Court Books (preserved in the Record Office) show entries of subscription and transfer. Thus on May 10th, 1664, the Governor writes 'James, two thousand pounds,' and in September, 'I will ad to my stok £2000, James' (*Treasury, African Companies*, 75); as to transfers, see *ante*, p. xlvii (1).

<sup>3</sup> In 1663 the Mint was directed to coin for the company, 'with a little elephant,

which we intend as a mark of distinction from the rest of our gold and silver monies, and an encouragement unto the said Company' to import. The gold value of the 20s. pieces, thus known as 'guineas,' was fixed in the warrant (*S.P. Dom.*, Car. II. lxxxvi. 50).

<sup>4</sup> Negroes, first named here in the charters, were at this date offered in the West Indies 'at £17 per head, sound, in lots as customary,' by the company (*S.P. Dom.*, Car. II. cccxviii. 194).

[Power to set to sea ships for further discovery, paying always such customs &c.†; such rivers places &c. not to be visited by any other our subjects; And therefore We do prohibit our subjects to visit there] or to import any red wood elephants' teeth negro slaves hides wax gums grains [&c. from those parts, without licence &c., under penalties &c.] :

And our further will and pleasure is and We do also hereby further charge prohibit and forbid all and every the factors and masters of ships mariners and members of the said Company and their successors that they or any of them do not directly or indirectly presume to trade adventure or traffic for themselves or any of them in or from the said rivers lands dominions and places aforesaid or any of them :

[Power to the Company to arrest and seize all] ships negro slaves goods wares [&c. brought contrary to this grant; one half forfeit to Us,<sup>1</sup> one half to the Company] :

[If We &c. wish to come in as partner, We shall be admitted †] according to such a proportion of money as We our heirs or successors shall put into the said stock, the said stock being valued as it should be then really worth<sup>2</sup> :

[Power to govern the Plantations, appoint Governors &c., raise military forces, execute martial law &c.; provision for sharing profits of gold mines] : †

And further We do for Us our heirs and successors give and grant unto the said Company that they shall enjoy to all intents and purposes all privileges in the City of London as fully as any Company of Merchants established by the King's Majesty's Letters or from any of his predecessors at present do or may enjoy :

[Admirals, Vice-Admirals &c. to be aiding &c.] :

[Grant to be valid and favourably construed, any omission notwithstanding] :

Although express mention of the true yearly value or certainty of the premises or of any of them or of any other gifts or grants by Us or any of our Progenitors or Predecessors heretofore made to the said *Company of Royal Adventurers into Africa* in these presents is not made, or any statute act ordinance provision proclamation or restriction heretofore had made enacted ordained or provided or any other matter clause or thing whatsoever to the contrary thereof in any wise notwithstanding :

In witness &c., witness our self at Westminster the tenth day of January  
per ipsum Regem.

† As in previous charter, *ante*, p. 176-7.

<sup>1</sup> See Commission in respect of the royal moiety, April 1664 (*S.P. Dom.*, Car. II. xcvi. 57).

<sup>2</sup> Charles put in £180 and £60 in March, 1662, and in June 1663 £5200 to

complete his venture of £6000, also £400 for the Queen (*S.P. Dom.*, Car. II. lxxv. 138). Later the company requested him to pay £7600, due from him as a member (*ibid.*, cxlii. 1).



ROYAL FISHING COMPANY.<sup>1</sup>

(Patent Rolls, 16 Car. II., pt. viii.)

CHARLES THE SECOND *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas* We, out of our princely care tending as well to the public weal of our Kingdom as the private commodity of our subjects have diligently considered and observed the great plenty of fish wherewith the seas estuaries or inlets creeks arms of the sea public rivers weeks <sup>2</sup> and lakes of our Dominions and the isles thereunto belonging by the Blessing of Almighty God do abound, and how great profit unto our subjects and increase of strength unto our sea forces as well in times of war as peace may from thence arise, And what an ease it will be to our Kingdoms to have many of the lazy and idle people set on work and trained up in the fishing trade, thereby to relieve themselves and improve the merchandise and traffic of our Dominions,

*Know ye that We*, having with the advice of our Privy Council weighed as well the public as private commodity and other consequences thereof, And not doubting but that our good subjects will diligently employ their utmost care and pains in the use and improvement of the said fishing trade and for the advancement of so good a work conducing to so worthy an end as the increasing of traffic and merchandise, *of our especial grace and favour certain knowledge and mere motion* have ordained made constituted and appointed and by these presents for Us our heirs and successors do ordain make [*&c.*] our dearest and most entirely beloved Brother *James Duke of York*, our entirely beloved Cousins and Counsellors *Prince Rupert*, and *George Duke of Albemarle*, Lord General of all our Forces, our right trusty and wellbeloved Cousins *James Earl of Suffolk*, *Henry Earl of Peterborough*, our right trusty and right wellbeloved Cousins and Counsellors *Edward Earl of Sandwich*, [ ] *Earl of Lauderdale*, our right trusty and wellbeloved *William Lord Craven*, *John Lord Berkely of Straiton*, *Horace Lord Townsend* our right trusty and wellbeloved Counsellor *Sir George Carteret Knight*, Vice-Chamberlain of our Household, *Sir William Morrice*, Knight, one of our Principal Secretaries of State, *Sir Henry Bennett*, Knight, another of our Principal Secretaries of State, our right

<sup>1</sup> See Introduction, *ante*, pp. civ.—cvi., and another fishing grant, printed *post*, at p. 196.

<sup>2</sup> A creek, small bay or inlet: see

*N.E.D.*, s.v. 'wick.' In the Commission (*ante*, p. cv.) which this clause follows, the word is 'nooks.'

trusty and wellbeloved *Henry Coventry* Esquire, *William Coventry* Esquire, *Sir Geoffry Palmer* Knight and Baronet, our Attorney General, and *Sir Heneage Finch* Knight and Baronet, our Solicitor General, our trusty and wellbeloved *Sir Richard Browne*, Clerk of our Privy Council, *Sir John Mennis* Knight, *Sir John Denham* Knight of the Bath, *Sir John Talbot* Knight, *Edward Sennore* Esquire, *Silias Titus* Esquire, *Andrew Newport* Esquire, *Thomas Clifford* Esquire, *Sir William Ryder* Knight, *Sir John Colleton* Knight, *Sir John Lawson* Knight, *Thomas Grey* Esquire, *Bullen Keymes* Esquire, *Henry Brunkard* Esquire, *Mathew Wren* Esquire, Colonel *John Griffith*, *Samuel Pepis* Esquire, Captain *Thomas Allen*, Captain *Roger Custance* and — Jolly merchant, that they and all such other person and persons as shall be received and admitted into the Company and Society shall be one body politic and corporate in deed and in name by the name of **The Governor and Company of the Royal Fishing of Great Britain and Ireland :**

[Them by that name We incorporate, with perpetual succession and power in law to have and enjoy manors lands &c., to plead and be impleaded, to have a common seal &c.] :

[Constitution :—one Governor and thirty-six Assistants : the *Duke of York* to be first Governor till Feb. 20th next or further election ; other persons abovenamed to be Assistants, for life unless removed : Assistants to take oath before *Duke of York*<sup>1</sup> ; power to administer oath ; Deputy Governor to be appointed, to take oath &c.] :

[Provision for annual meeting between Feb. 1st and 20th for election of Governor for ensuing year, who shall take oath before the last Governor and six Assistants unless he be of the Royal Blood and Family :<sup>2</sup> Governor to hold office for a year or till further election, to be removable for misdemeanour at the pleasure of seven or more Assistants ; if removed or dying, Governor and Assistants to be replaced ] :

And We do hereby declare and grant that the said Governor or his Deputy for the time being shall and may from time to time by summons in writing under his hand assemble and call together the members of the said Company as often as need shall require and regulate the debates thereof, And also issue such orders and warrants as by the said Governor [or Deputy, with any six or more Assistants], shall be thought fit and agreed on :

[Power to meet and debate affairs and choose officers and servants,]

<sup>1</sup> Pepys describes the effect of lack of a form of oath (see *post*, p. 199), and the discussion as to form (*Diary* (ed. Wheatley, 1903) iv. pp. 177-8). The Lord Privy

Seal wanted a clause for the Oaths of Allegiance and Supremacy (*S.P. Dom.*, Car. II. xvi. 51).

<sup>2</sup> Clause as above, p. 180.



and to appoint make and give such allowances and salaries unto the person and persons so to be employed [as thought fit], which We will shall be paid and payable by and out of such monies as from time to time shall be seised and appointed to and for the said fishing :

[Power to ordain and publish good reasonable and necessary laws &c. for the good government of the Society its affairs officers and employees ; power to revoke and alter the laws &c., and impose fine or imprisonment for breach of them,] the said fines and amerciaments to be levied and received to our use by distress or any other legal way or means whatsoever :

[Such laws to be observed] yet so as the same [laws &c.] be not contrary or repugnant but as near as may be agreeable to the laws and statutes of this our Realm and be ratified and confirmed according to the Statute in that behalf made and provided : <sup>1</sup>

[The Company shall] have and enjoy to all intents and purposes whatsoever all liberties and privileges of and in our City of London and also receive and admit into the said Society all such and so many person and persons as they shall think fit as fully and amply as any Company of Merchants established by Letters Patents of Us or any of our Predecessors do or may have or enjoy :

[Governor to administer an oath of fidelity to all employees ] :

And We do hereby further declare and grant that the Governor for the time being or his Deputy shall have power and authority hereby to send for persons writings papers rolls and records whatsoever for their better information and instruction in all or any matters or things touching the premises or which may be helpful or assistant in the managing or advancement thereof :

*And whereas* at the beginning of this good work several sums of money may be required for promoting the same, We do by these presents give and grant licence and authority unto the Governor and Company aforesaid for the setting up of a lottery within our Kingdom of England for the space of three years, to commence from the Feast of Easter next ensuing the date of these presents, And also to have our Letters Patents for a free collection in the Churches and therein to give it in charge to the ministers to evidence the goodness of the work as the said Governor and Assistants or any seven or more of them at any General Assembly, whereof the Governor or his Deputy to be one, shall direct and think fit : <sup>2</sup>

<sup>1</sup> See above, pp. xcix. (1), 127 (1)

<sup>2</sup> The Earl of Pembroke gave an account of £818 6s. 4½d. raised by collection in London churches (*S.P. Dom.*, Car. II.

lxxiii. 56): see *ante*, p. cvi. Earlier lotteries for fisheries and for the Virginia Co. are mentioned *ante*, pp. lxxxiv. cv.

And We do hereby declare and grant and also prohibit and forbid that no new or other lottery shall during the said three years be licensed or set up or in any kind used or exercised within our said kingdom :

And We do hereby order direct and appoint that all such monies as are or shall be raised by reason or occasion of the said lottery or of any other lottery already erected or set up in this behalf shall be forthwith and from time to time paid and delivered to the Lord Mayor of our City of London and the Chamberlain thereof for the time being, whom We do by these presents constitute and appoint to be Treasurers of and for the said Company, and to receive all monies coming in and to be employed for the advancement of the said fishing trade, and to disburse and pay the same as they from time to time shall be authorised by order or warrant in writing under the hand of the Governor [or Deputy and six or more Assistants] for the time being and not otherwise, to whom We do hereby give and grant power and authority to order payment and disbursement for the use and benefit of the said fishing trade only and such officers and contingencies thereunto appertaining, as to them shall seem meet :

And We do hereby also declare that the said Treasurers only and no other person or persons shall be accountable to the said [Company] for monies received and disbursed as aforesaid, And that their account shall be audited and made upon the first Tuesday after Candlemas every year in the presence of the Governor or Deputy Governor and six or more of the said Assistants for the time being :

[Governor and Assistants or any seven of them may require security from their Treasurers for the monies to be by them received : ]

And We further declare our Royal pleasure and resolution at all times hereafter to grant unto the said [Company] such privileges and immunities for the better carrying on this business of our Royal Fishing and to discourage foreign importations as shall be represented useful by the said Society :

*Provided always* that if We our heirs or successors shall at any time after the expiration of seven years to be accounted from the day of the date of these presents conceive these our Letter Patents of Incorporation or any the grants clauses powers or authorities therein contained to be prejudicial or inconvenient or not of public use and benefit, then, upon signification of the pleasure of Us our heirs or successors in that behalf under our or their Sign Manual or Privy Seal, these presents or such or so many of the said grants clauses [&c.] whereof or concerning which such signification or declaration shall be made, shall from thenceforth cease determine and be void, Anything in these presents contained to the contrary notwithstanding :



*Provided also*, and We do hereby declare, that if at any time within seven years now next coming the said Governor and Company shall be desirous to surrender this Charter and privilege thereof granted, We will accept of such surrender, And that from thenceforth the said Charter and privilege shall cease and have no longer being, Anything in these presents contained to the contrary in any wise notwithstanding :

In witness &c., witness &c. at Westminster the xiv day of March,  
*per breue de priuato sigillo.*

## AFRICAN COMPANY.<sup>1</sup>

(Patent Rolls, 24 Car. II., pt. iii.)

CHARLES THE SECOND *by the Grace of God King of England Scotland France and Ireland, Defender of the Faith* &c., To all to whom these presents shall come, Greeting :

*Whereas* all and singular the regions [of Guinea &c. belong to the Crown<sup>2</sup>],

*And whereas* the trade of the said regions countries and places is of great advantage to our subjects of this Kingdom, and for the improvement thereof divers attempts have been made and several charters granted by our Royal Progenitors to several persons with such powers and authorities as were then conceived proper for the carrying on of the said trade, but all the said endeavours proved ineffectual till We by Letters Patents under our Great Seal of England bearing date the tenth day of January in the fourteenth year of our reign<sup>3</sup> did give and grant unto our Royal Consort *Queen Katherine, Mary the Queen our Mother* (since deceased), our dearest Brother *James Duke of York* and others therein named the propriety and government of all the said regions [&c. in trust for the Company and incorporated them &c. as therein appears,] whereby the said trade is very much advanced and improved,

*Nevertheless* by accidents in the late wars<sup>4</sup> and other casualties the said Company have sustained great losses by means whereof their stock hath been so impaired that, besides the great debts they were liable

<sup>1</sup> See Introduction, *ante*, pp. xliv.-xlviii.

Previous charters are printed above, pp. 99-106, 172-7, 177-181.

<sup>2</sup> As above, p. 172.

<sup>3</sup> See grant printed above, pp. 177-81.

<sup>4</sup> An earlier petition by the Company (*S.P. Dom.*, Car. II. cx. 10) speaks of losses caused by De Ruyter.

to, there remained not sufficient to manage the said trade, whereupon all persons refused to advance any more money upon that account lest it should be subject to the payment of those debts and not be employed in the said trade,

And it being found also by experience that the powers and privileges in our said Letters Patents granted were not sufficient for those purposes for which they were designed,

Thereupon the said Company, to enable them to pay and satisfy their just debts so far as the value of what remained unto them will extend unto, have treated with the persons hereafter named who upon that occasion have made subscriptions towards a new stock, and have for valuable consideration undertaken to assure unto them all the said regions [&c.] by Us granted as aforesaid, and all their rights and privileges in the trade thereof, And for that end to become humble suitors to Us that We would be graciously pleased to accept a surrender of all their rights and interests either in law or equity in the said regions [&c.] and of all their whole rights and privileges of trade unto those parts, And that We would be pleased to make the said persons hereafter named a new Society or Corporation to whom the said regions [&c.] and the sole trade thereof may be granted with such powers and privileges as shall be most convenient for the advancement and carrying on the said trade,

And the said Company have accordingly besought Us on that behalf and have under their Common Seal surrendered the said propriety and sole privilege unto Us for the purposes aforesaid,

*Now know ye that We* graciously tendering the encouragement and advancement of the said trade and to the end the new Company or Corporation hereafter erected and constituted may be the better enabled to maintain and enlarge the said trade and traffic with and from the parts and places in the said Letters Patents and hereafter in these presents expressed, and at the humble petition of the said *Company of Royal Adventurers of England trading into Africa* and also of the persons hereafter named, We have accepted of the said surrender and *of our more especial grace certain knowledge and mere motion* We have given and granted, and for Us our heirs and successors do hereby give and grant, unto our dearest Brother *James Duke of York, Anthony Earl of Shaftesbury, Mr John Buckworth, Sir John Banks, John Bence Esquire, William Earl of Craven, Mr Jarvis Cartwright, Mr Samuel Dashwood, Sir Richard Ford, Mr Thomas Farrington, Captain Ferdinando Gorges, Mr Edward Hoopgood, Mr John Jefferies,<sup>1</sup> Sir Andrew King, Charles Modyford Esquire, Mr Samuella Moyer, Mr Peter Proby, Mr*

<sup>1</sup> Elsewhere spelt Geffreys.



*Gabriel Roberts, Sir John Shaw, Mr Benjamin Skutt, Sir Robert Vyner, Mr Thomas Vernon, Mr Nicholas Warren and Mr Richard Young, their executors and assigns, all and singular the regions [within the bounds described,<sup>1</sup> to the said James Duke of York and persons above-named, their executors and assigns, from this date for 1000 years, yielding two elephants &c., in trust nevertheless for the Company hereafter mentioned]:<sup>2</sup>*

*And therefore, [for the setting forward &c. of the trade, We incorporate the above-named persons, with] His Highness Prince Rupert, Henry Earl of Arlington, Colonel William Ashburnham, Alderman Robert Ask, Mr John Ashby, Mr John Ayres, Mr Thomas Aldworth, Mr Russell Alsop, Mr Richard Alic, Mr Thomas Andrewes, His Grace the Duke of Buckingham, John Earl of Bath, George Lord Berkely of Berkley, Sir Thomas Blodsworth, John Ball Esq., Mr Richard Booth, Mr James Burkin, Mr John Smith, Mrs Dorcas Birkhead, Mr Edmond Bostock, Mr Richard Beckford, Mr Anthony Barnardiston, Mr Joas Bateman, Mr Edward Bouvery, Mr Man Browne, Mr John Beare, Mr Richard Boys, Mr John Bowerman, Mr William Bowman, Mr John Bowles, Thomas Lord Clifford, Sir George Carterett, Sir William Coventry, Sir Anthony Craven, Sir Robert Cotton, Sir Peter Colleton, Sir Nicholas Crispe, Sir Francis Chaplin, Sir Robert Clayton, Mrs Dorothy Colvill, Captain George Cook, Mr Benjamin Coles, John Crispe Esq., Mr Thomas Crispe, Mr Nicholas Cook, Mr John Culling, Mr Josia Childe. Mr Thomas Childe, Mr Nicholas Carter, Mr Benjamin Cole, Mr John Cooke, Sir Jonathan Dawes, George Dashwood Esq., Alderman Francis Dashwood, Mr William Dashwood, Mr George Day, Mr Thomas Duck, Mr Humfry Edwin, Mr Samuell Everard, Sir Phillip Frowd, Alderman Samuell Forth, Mr John Fenn, Mr George Frohock, Mr John Fitch, Mr Moses Goodyer, Mr Henry Griffith, Mr William Goulston, Mr John Gardner, Mr Phillip Grave, Mr William Galway, Mr Robert Jeffreys, Mr. John Gourney, Francis Lord Hawley, James Hoare Senior Esq., Mr William Hodges, Mr John Hill, Mr John Harbin, Mr Ralph Hodgkins, Mr Thomas Heatly, Mr Richard Holder, Mr Richard Hawkins, Mr George Hadley, Mr Rowland Hill, Mr James Hoare Junior, Mr Henry Johnson, Mr John Jurin, Mr Peter Joy, Mr Thomas Johnson, Mr Marke Jervis, Mr George Keate, Mr Henry Kempe, Sir Charles Littleton, Sir John Lowther, Christopher Lowther and Thomas Lewes Esquires, Mr John Lindsey, Mr Simon Lewis, Mr John Letten, Mr Jacob Lucy, Mr William Lovell, Mr Ralph Lee, Mr Henry Lascoe, Mr John Lock, Mr Richard Middleton, Mr Marke Mortimer, Mr John Middleton, Mr Robert Morris, Mr Daniel Mercer, Mr Humfry Morrice, Mr John Morice,*

<sup>1</sup> As above, p. 179.

<sup>2</sup> As above, p. 174.

Mr Thomas Murthwaite, Mr Ralph Marshall, Mr John Meade, Mr John Markland, Mr John Morgan, Mr Robert Monteth, Mr William Metcalfe, Thomas Neales Esquire, Mr Benjamin Newland, Mr Thomas Nicholls, Mr Richard Nicol, Mrs Delicia Nelson, Lord Powis, Sir Thomas Player, Lawrence du Puy Esquire, Charles Porter Esq., Thomas Povey Esq., Mr John Portman, Mr Daniell Penington, Mr Peter Paravacini, Sir John Robinson, Dame Priscilla Ryder, Tobias Rustat Esq., William Rosse of Rosse Island, Esq., Thomas Rider Esq., Mr William Rider, Mr William Roberts, Mr Robert Ryves, Mr Henry Richards, Mr Edward Rudge, Mr Godfrey Richards, Mr Charles Ryves, Colonel John Searle, Sir John Smith, Mr Joseph Skutt, William Salmon Esq., Mr Samuel Sambrooke, Mr Peter Short, Mr Robert Stevenson, Mr William Stevens, Mr John Short, Mr Thomas Short, Mr John Sweeting, Mr Simon Smith, Mr John Skepper, Mr Thomas Stevens, Mr Nathaniell Symonds, Mr Edmond Sherman, Mr — Skermer, Sir John Talbott, Mr Henry Tulce, Mr George Toriano, Mr Samuel Terrell, Mr Paul Tatnell, Mr William Vannam, Sir George Waterman, Sir Thomas Wolstenholme, Brome Whorwood Esq., Sir Joseph Williamson, Mr Thomas Winter, Mr Edward Willoughby, Mr William Walker, Mr William Warren, Mr Arnold White, Mr John Winder, Mr Nicholas Wilde, Mr Thomas Western and Mr John Young, that they and [other persons admitted \* shall be one body politic &c.] by the name of **The Royal African Company of England :**

[Further words of incorporation ; perpetual succession ; power in law to take &c. manors &c., plead and be impleaded, and have a common seal \*], which seal our will and pleasure is shall be engraven and set forth in manner and in form following, that is to say, On the one side the image of our Royal Person in our Parliament or royal robes, and on the other side an elephant bearing a castle supported by two negroes or blackmores :

[Constitution :—a Governor, Sub-Governor, Deputy Governor and twenty-four Assistants : the Governor Sub-Governor or Deputy Governor with any seven Assistants to form a Court of Assistants authorised according to rules given them by the General Court of the Company, to manage voyages sales choice of officers &c., and act generally : *James Duke of York*, *Anthony Earl of Shaftesbury*, and Mr *John Buckworth* nominated first Governor, Sub-Governor and Deputy Governor respectively ; other persons named above as trustees] together with three or such other persons as shall be chosen at the next General Court of the said Company or any other General Court by the major part of the persons there assembled before the first day of

\* As in previous charter, *ante*, p. 175.



January next ensuing to be Assistants [till January 20th next, unless they die or are removed ; power to replace them, and make annual election ; provision for oaths to all members now or hereafter admitted], which oath We will and appoint shall be in these words following, *You do swear to be good and true to our Sovereign Lord the King's Majesty and to his heirs and successors and that you will be faithful to the Royal African Company of England trading into Africa*<sup>1</sup> *in the management of their said trade ; the secrets of the said Company which shall be given you in charge to conceal by the said Governor Sub-Governor or Deputy Governor you will not disclose*<sup>2</sup>, *and during the present joint stock of this Company you will not trade to any of the limits of this Company's Charter without leave of the General Court or Court of Assistants*<sup>3</sup>, *So help you God :*

[Power to Court of Assistants to administer an oath of fidelity to servants &c.] so that nothing be contained in the said oath that is or shall be repugnant to the laws of this Kingdom :

[Provision for oath to officers annually elected ; power to assemble, hold Courts, make laws &c., and impose punishments ;] if the Governor Sub-Governor Deputy Governor or any of the Assistants for the time being shall at any time hereafter be convicted for any misdemeanour and declared to be removed by the judgment of the generality of the said Company or the major part of them or so many of them as shall be then duly assembled upon summons issued for calling of a General Court by the Governor Sub-Governor Deputy Governor or any three of the Assistants, which summons the said [officers aforesaid] are hereby required to issue forth when and as often as they shall be thereunto required by any twelve of the generality of the Company, [he shall] be *ipso facto* removed and deprived of his said office ; [provision for new election] :

[Provision for assignment of stock] : \*

[Provision as to setting to sea ships &c., as to gold and silver mines, and as to trade in gold and silver, negroes<sup>4</sup>, &c. ; provision for sailing for further discovery ; the regions not to be visited by others ; prohibition thereof ; power to enter ships and arrest seize &c. ships negroes goods &c., with forfeiture thereof] : \*

And for the better preventing of secret and clandestine trading

<sup>1</sup> This recalls the older style of the company (see p. 179, above).

<sup>2</sup> Such phrases are links with the gild-member's oath not to bewray the affairs of the gild, or discover the counsel of the brethrenhood (see examples, Toulmin Smith, *Gilds*, pp. 267, 317).

<sup>3</sup> Cf. the Muscovy Company's oath,

printed by Hakluyt, ii. p. 290.

<sup>4</sup> Negroes ordered in advance (males or females twelve to forty years) were advertised at this date by the African Co. for delivery at Barbados at £15, at Nevis £16, at Jamaica £17, and at Virginia £18 a head (*S.P. Dom.*, Car. II. cccxviii. 194).

\* As in previous charter, *ante*, pp. 180-1.

contrary to our intentions hereinbefore expressed, our further will and pleasure is, and We do for Us our heirs and successors grant unto the said Royal African Company of England and their successors, that no Commissioners or other officers whatsoever that are or shall be appointed to manage the affairs of the Customs payable to Us our heirs or successors shall permit any entries to be made of any goods or merchandise to be exported from any of our ports in our Kingdom of England for or to any of the parts aforesaid or of any goods or merchandise of the growth production or manufacture of the parts or places aforesaid of Guinny Binny Angola or South Barbary above limited or appropriated to the said [Company] to be imported other than such as from time to time shall be allowed of by the said Court of Assistants of the said Company or their successors under their common seal or the hands of the officer to be by them appointed to sit in the Custom House for that purpose :

And We do of our more especial grace and favour certain knowledge and mere motion for Us our heirs and successors give and grant unto the said [Company] that the Governor Sub-Governor Deputy Governor and Assistants of the said Company for the time being or any seven of them duly appointed in manner aforesaid shall and may have the ordering rule and government of all such forts factories and plantations as now are or shall be at any time hereafter settled by or under the said Company within the parts of Africa aforementioned, and also full power to make and declare peace and war with any of the heathen nations that are or shall be natives of any countries within the said territories in the said parts of Africa as there shall be occasion<sup>1</sup>, [and also to appoint governors there with powers of raising troops and executing martial law ; provision as to profits of gold mines ] :<sup>2</sup>

And for the more effectual encouragement of merchants that shall trade to those parts We have thought fit to erect and establish, and We do by these presents erect constitute and establish, a Court of Judicature to be held at such place or places fort or forts plantations or factories upon the said coasts as the said Company shall from time to time direct and appoint, which Court shall consist of one person learned in the Civil Laws and two merchants, Which said persons and such officers of the said Court as shall be thought necessary shall be nominated and appointed from time to time by the Court of Assistants or the major part of them, And which said person learned in the Civil Laws and two merchants or the major part of them, whereof the said person

<sup>1</sup> This provision and those following it (except the clause as to gold mines) re-appear in the same order in the East India charter of 1683 (*ante*, p. lii.).

<sup>2</sup> As above, p. 177.



learned in the Civil Laws to be one, shall have cognizance and power to hear and determine all cases of forfeiture and seizures of any ship or ships goods and merchandises trading and coming upon any the said coasts or limits contrary to the true intent of these presents, and also all causes of mercantile or maritime bargains buying selling and bartering of wares whatsoever and all policies or acts of assurance all bills bonds or promises for payment of money on mercantile or trading contracts all charter parties or contracts for affreighting of vessels and wages of mariners and all other mercantile and maritime cases whatsoever concerning any person or persons residing coming or being in the places aforesaid, and all cases of trespasses injuries and wrongs done or committed upon the high sea or in any of the regions territories countries or places aforesaid concerning any person or persons residing coming or being in the places aforesaid :

All which cases shall be adjudged and determined by the said Court upon due examination and proof according to the rules of equity and good conscience and according to the laws and customs of merchants by such methods and rules of proceedings as We shall from time to time direct and appoint either under our Great Seal or Privy Seal, and, for want of such direction and until such direction shall be made, by such ways and means as the Judges of the said Courts shall in their best judgment and direction think meet and just whether it be a summary way or otherwise according to the exigency of the several cases that shall be brought to judgment before them, And all judgments determinations or decrees made in the said Courts are to be put in writing and signed by the persons that were present at the making of the same, and shall contain a short state of the matter of fact as it appeared to them and their sentence and adjudication thereupon :

[The Company to enjoy privileges in City of London as fully as other Companies] :

[Admirals Vice-Admirals &c. to be aiding &c.] :

[Grant to be valid and favourably construed, any omission notwithstanding] :

[Although express mention &c.] :

In witness &c., witness the King at Westminster the seven and twentieth day of September

*by the King.*

THE YORK BUILDINGS CONCESSION.<sup>1</sup>

(Patent Rolls, 27 Car. II., pt. i.)

CHARLES THE SECOND *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

We, being informed by the humble petition of *Ralph Bucknall* and *Ralph Wayne*, gentlemen, that We by Letters Patents under our Great Seal of England dated the sixth day of May in the seventeenth year of our reign<sup>2</sup> were pleased to empower *Francis Williamson* Esquire, deceased and *Ralph Wayne*, gentleman, to convey certain springs of water to and for the use of the inhabitants of Saint James Fields Piccadilly Charing Cross and parts adjacent, And that upon their humble petition We would grant such further power and licence as should be necessary for the further and better supply of the said inhabitants,

And whereas, they the said *Ralph Bucknall* and *Ralph Wayne* desiring licence for the raising of Thames water and conveying the same from York House Garden to the places aforesaid and elsewhere to such persons as shall desire it, it was the three and twentieth day of October last ordered that *Sir Christopher Wren*, our Surveyor General of our Works, should examine the business and view the place where the Petitioners would raise the water and thereupon report what annoyance or inconvenience might happen to the inhabitants thereabouts by granting the Petitioners' request, In pursuance whereof the said *Sir Christopher Wren* did the fourth day of November last report that he had viewed the place where the Petitioners intend to raise the Thames water and seen the design of the engine and did not conceive it would be any annoyance, the work moving easily and without noise, and that he had also seen a paper expressing the desire of the inhabitants that the said work should be effected, to which the hands of many persons of quality were affixed, and did conceive, the work being chargeable, the prejudice, if any, would redound only to the undertakers and such others who have already grants for deriving water and not to the inhabitants if the water may be afforded at as easy rates as otherwise,

Which report having been read before Us in Council the said fourth of November, and We taking the same into consideration as also the advantages and usefulness of the Petitioners' design to the public, We were thereupon pleased to express our gracious inclination to condescend unto the Petitioners' request,

<sup>1</sup> See Introduction, *ante*, p. cxxvi. The undertaking was not incorporated until 1691 (Statute 2 W. & M. (Sess. 2) c. 24).

<sup>2</sup> *Patent Rolls*, 17 Car. II. pt. vi. : a grant for sixty years.



But lest this concession should any ways prejudice the Corporation of the New River, which is a work of that consequence as deserves all due encouragement, We thought fit that the Governor and Company of the said New River should have notice thereof, to the end that, if they had any reasons to object against the licence desired by the Petitioners, they might attend Us therewith with Counsel, which accordingly they did the four and twentieth day of November last,

And, both parties attending and being fully heard by their Counsel learned, We upon mature consideration of all that was alleged on both sides were pleased to declare, and accordingly it was ordered by Us in Council with the consent of both parties, that a Patent should be forthwith prepared and passed under the Great Seal of England giving free licence and authority unto the said [*Bucknall and Wayne*] and their assigns to set up their engine at York House Garden as aforesaid, and from thence to convey Thames water to such of the inhabitants of Saint James Fields Piccadilly Charing Cross and elsewhere to such persons as shall desire the same,

*Now know ye that We*, for the promoting and advancing of so public and good a work and considering what great charge and expense the said [*Bucknall and Wayne*] must be at in effecting and doing the same, *of our especial grace certain knowledge and mere motion* have given and granted [and hereby for Us our heirs &c. grant &c.] unto the said [*Bucknall and Wayne*], their executors administrators and assigns, free licence liberty power and authority to erect and build a waterwork and waterhouse near our River of Thames in and upon part of the ground of York House or York House Garden being their own ground, and to make dig and lay ponds pipes and cisterns in and to our said River and take and receive water from the same from time to time and at all times during the term hereunder granted, for supplying furnishing and storing of the said waterwork and waterhouse with water for supply of the inhabitants [aforesaid and elsewhere desiring the same] at reasonable and usual rents and rates :

And We do further upon the considerations aforesaid give and grant unto the said [*Bucknall and Wayne*, their executors &c.]; free leave licence power and authority to lay pipes from the said waterwork so intended to be made in and through the places aforesaid and all other streets and places whatsoever as occasion shall require, And to dig and make store cisterns and such other receipts and conveniencies for holding of water and supplying the inhabitants [aforesaid] and elsewhere as shall be necessary :

And the pavement and ground in all every or any the parts streets lanes and places aforesaid at all or any time or times during the term

hereunder mentioned to break up dig and sink for the making of the said cisterns and laying of the said pipes for the passage and conveyance of the water as aforesaid, immediately so soon as may be filling up the same ground and making good the pavements and having first the consent and agreement of the owners and possessors of such lands or grounds so to be broken up, not being streets or common ways or passages :

And the grounds streets and places with such consent as aforesaid at all time and times to dig and break for the repair and amendment of all and every or any of the said pipe or pipes, and branches from the main pipe and pipes to lay and place for the carrying and conveying of water to all and every or any the inhabitants' houses, and the grounds and pavements to dig and break for the laying of such branches, making the said grounds and pavements good again as aforesaid :

*To have and to hold* the said licence [to build a waterhouse, lay and repair pipes, break ground &c. as above] unto the said [*Bucknall* and *Wayne*, their executors &c.], from the date of these presents unto the full end and term of ninety and nine years from thence next ensuing and fully to be complete and ended, Yielding and paying therefore yearly unto Us our heirs and successors the rent of five shillings of lawful money at the Feast of Saint Michael the Archangel :

And for the said *Ralph Bucknall* and *Ralph Wayne's* more secure enjoyment of this our licence and liberty and for their encouragement in their proceeding in so good a work, We do hereby prohibit and forbid all persons whatsoever to disturb or molest the said [*Bucknall* and *Wayne*] or any of their servants or workmen executors administrators or assigns digging the said streets and places and laying and amending of pipes in manner aforesaid, and not to break spoil hurt or damage the pipes so intended to be laid nor to hinder stop or molest the free current and passage of water in the said intended pipes :

And We do hereby for Us our heirs and successors declare upon humble request in that behalf from time to time to make and give the said [*Bucknall* and *Wayne*, their executors &c.,] such further assurance for their quiet enjoyment of the said waterhouse and laying of pipes and amending of the same and further enjoyment of this our grace and favour to them as to our Attorney General for the time being shall be thought meet and expedient :

*Provided always*, and our intent and meaning is and is hereby declared to be, and this our grant is upon this condition, that they the said [*Bucknall* and *Wayne*, their executors &c.] shall not at any time hereafter assign or transfer these our Letters Patents or the powers and privileges hereby granted or any part thereof to the Governors and



Company of the said New River or to any other person or persons whatsoever in trust for them or to their use : <sup>1</sup>

*Provided also* [&c. as above,] that upon complaint made by any of the tenants in the places aforesaid of any abuses either through the enhancing of the usual prices of the said water or otherwise, the said [*Bucknall* and *Wayne*, their executors &c.,] shall submit to such regulation and order as We our heirs and successors in Council shall think fit to make :

And upon condition that the Governors and Company of the New River Water or their assigns do not hinder or obstruct the said [*Bucknall* and *Wayne*, their executors &c.,] from laying their pipes in all such places as they shall think fit for serving their water to such as shall desire the same, they, the said [*Bucknall* and *Wayne*, their executors, &c.,] shall not hinder or obstruct the Company of the New River from laying their pipes, but that the said Company shall have liberty to lay their pipes in all parts and places as they shall think fit for serving the New River water to such places where it shall be desired :

And our further pleasure is, and We do hereby command, that they the said [*Bucknall* and *Wayne*, their executors &c.], in laying their pipes in the streets where they are forced to cross those of the New River shall take all possible care not to prejudice annoy or damage the pipes of the said Company of the New River, the said Company having reciprocally promised the like care in respect of the pipes belonging to the said [*Bucknall* and *Wayne*, their executors &c.] :

And in case any disputes or controversies shall arise between the said parties their executors administrators agents or assigns concerning either of the points aforesaid, That both the parties shall stand to and abide such order and determination as We our heirs and successors in Council shall from time to time think fit to make therein :

In witness &c.

Witness our self at Westminster the viith day of May  
*per breue de priuato sigillo.*

## ROYAL FISHERY OF ENGLAND.<sup>2</sup>

(Patent Rolls, 29 Car. II., pt. x.)

CHARLES THE SECOND &c., To all to whom these presents shall come, Greeting :

*Whereas* We have considered the great plenty of fish in the seas lakes creeks and public rivers of within and belonging to our Kingdom

<sup>1</sup> Nevertheless the York Buildings Company, after many vicissitudes, was absorbed by the New River Company in 1818, its works and plant being bought for £32,000. See Clifford, *Private Bill Legislation*, ii. 115,

and *ante*, p. cxxvii.

<sup>2</sup> See Introduction, *ante*, pp. civ.-cvii. Compare the fishing grant printed *ante*, p. 182.

and Dominions, and the great profit and advantage which might be made thereof and which would certainly accrue both to Us and our subjects if the fishing trade were effectually prosecuted in this our Kingdom, as well by the breeding up of seamen and increase of shipping and navigation as by the advancement of trade increase of sundry manufactures and the employment and setting on work great numbers of poor impotent idle and vagrant persons in the making and mending of nets and other materials belonging to the said fishing trade,

And that, notwithstanding sundry designs and attempts have heretofore been made and set on foot and very great sums of money raised for the carrying on of the said trade here in England, the same have hitherto failed and proved ineffectual until our dearest Brother *James Duke of York* and others the persons hereinafter named, being willing to promote so good a work, have for near three years past (mauger all the difficulties and discouragements they have met with) undertaken and managed the said fishing trade with some effect, Who, finding by experience that if they were incorporated they should be thereby much better enabled and capable to prosecute and carry on the same, have therefore humbly besought Us for their greater encouragement to incorporate them and all such others as they shall admit into their Society by the name of The Company of the Royal Fishery of England, with such powers privileges and immunities as hereinafter are expressed,

*Now know ye that We*, always greatly considering the good and benefit of our subjects, and being desirous by all means to advance and encourage so public and hopeful an undertaking, *of our especial grace certain knowledge and mere motion* have declared given and granted, and by these presents for Us our heirs and successors do declare give and grant, unto our said dearest Brother *James Duke of York*, and to our right trusty and right wellbeloved Cousin and Counsellor *Thomas Earl of Danby*, our High Treasurer of England, our right wellbeloved natural Son *James Duke of Monmouth*, our right trusty and wellbeloved Cousins *James Earl of Suffolk* and *Nicholas Earl of Scarsdale*, our right trusty and wellbeloved Counsellors *Charles Earl of Carlisle*, *Francis Viscount Newport*, Treasurer of our Household, and *John Lord Maynard* Comptroller of our Household, our right trusty and wellbeloved *Francis Lord Hawley*, our right trusty and wellbeloved Cousin *Mary Viscountess Mordant*, our right trusty and wellbeloved Counsellors *Sir Joseph Williamson* Knight, one of our Principal Secretaries of State, *Sir Thomas Chicheley* Knight, Master of our Ordnance, *Sir Robert Carre*, Knight and Baronet, Chancellor of our Duchy of Lancaster, and *Edward Seymour* Esquire, Speaker of our House of Commons, our trusty



and wellbeloved *Baptist May* Esquire, Keeper of our Privy Purse, *Sir Phillip Howard* Knight, *John Hervey* Esquire, Treasurer to our dearest Consort the Queen, *Sir Thomas Armstrong*, Knight and Baronet, *Sir Hugh Cholmeley* Knight, *Sir John Banks*, Knight and Baronet, *Sir Cyril Wyche* Knight, *Sir George Waterman* Knight, one of the Aldermen of our City of London, *Sir Anthony Dean* Knight, one of the Commissioners of our Navy, *Sir Nathaniell Herne* Knight, *Ralph Widdrington*, *Thomas Windham*, *William Ashburnham*, *Thomas Ellyott*, *Daniell Collingwood*, *Samuell Pepys*, *Henry Seymour*, *Henry Norwood*, *John Strode*, *Henry Guy*, *George Arnold*, *John Creed*, *John Nicoll* Senior, *Christopher Deeringe*, *John Nicoll* Junior, *Sydney Godolphin*, *Francis Watson*, *Arthur Herbert*, *John Jefferyes*, *George Collingwood*, *John Lyndsey*, *Francis Rogers*, *Edward Harris* and *Theodore Haake*, Esquires, *James Peirce* and *William Hewers*, gentlemen, *George Toriano*, merchant, *Thomas Whitley* gentleman, *Stephen Jackson*, *Joseph Jackson*, *Thomas Shaw* and *Richard Holt* of London, merchants, *Roger Reeve* of London, *Salter*, *Richard Hawkins*, Scrivener, *Charles Duncombe*, *William Barlett* and *Robert Chase* of London, Goldsmiths, *William Wayte* of London, Tallow-chandler, *Thomas Paxton* and *James Uther* of London, Fishmongers, *Thomas Langley* of our town of Harwich in our County of Essex, gentleman, and *Isaack Betts* of the same place, Ship Carpenter, That they and such others as hereafter from time to time shall be (as hereinafter mentioned) admitted into their Company and Society to be traders and adventurers with them shall be one body politic and corporate in deed and in name by the name of **The Company of the Royal Fisbery of England** :

[By that name to be fully corporate &c., with perpetual succession, capacity in law to have purchase enjoy &c.] manors messuages lands tenements rents of the yearly value of one thousand pounds *per annum*, liberties privileges jurisdictions franchises and hereditaments of what kind nature or quality soever to them their successors and assigns, [and to dispose of the same &c. ; power to plead and be impleaded &c., have a common seal &c.] :

[Constitution :—one Governor, one Sub-Governor, one Deputy Governor and twelve Committees], Which said Governor Sub-Governor Deputy Governor and Committees We will shall be and shall be called the Court of Assistants of the Royal Fishery of England, and that they or any three or more of them, whereof the Governor or Sub-Governor or Deputy Governor to be always one, shall be and are hereby authorised and empowered according to such rules orders and directions as shall be from time to time made and given unto them by the General Court of the said Company [to manage affairs and servants &c., and generally

to act] as they shall judge necessary and expedient to the well ordering and government of the said Company and the improvement of their joint stock and trade, And to do enjoy perform and execute all the powers authorities privileges acts and things in like manner to all intents and purposes as if the same were done at and by a General Court of the said Company :

[Officers nominated :—Governor, *James Duke of York* ; Sub-Governor, *Thomas Windham* ; Deputy Governor, *John Nicoll Junior* ; Committees, *Sir Phillip Howard*, *Ralph Widdrington*, *Colonel John Strode*, *Sir Anthony Deane*, *Sir George Waterman*, *Sir Nathaniell Herne*, *Henry Norwood*, *Francis Watson*, *Daniell Collingwood*, *Stephen Jackson*, *George Toriano* and *Joseph Jackson* : to continue till St. Andrew's Day next or further election &c. ; power to replace them &c.] :

[Provision for annual election on St Andrew's Day] unless the said Feast happen to fall on a Sunday, and then at and upon the Monday then next following ; [for assembly in a General Court (quorum of twelve) ; for corporal oaths to be taken by all except the Governor before the Lord High Chancellor of England or the Chancellor of the Exchequer ; all persons admitted also to take an oath as follows :—] *You do swear to be good and true to our Sovereign Lord the King's Majesty and to his heirs and successors, and that you will be faithful to the Company of the Royal Fishery of England in the management of their trade, the secrets of the said Company which shall be given you in charge by the Governor Sub-Governor Deputy Governor and Committees or any of them to conceal you shall not disclose, but to your power<sup>1</sup> shall be lawfully aiding and assisting to the said Company in the managing of their affairs, So help you God* : [power to administer the same] :

[Further provision, upon choice of any succeeding Governor and other officers, for administration of oath] :

[Power to assemble] :

[Power to admit members at a General Court ;] and to increase contract or divide their Joint Stock or any part thereof, when so often in such proportion and manner as they or the greatest part of them then present, whereof the Governor Sub-Governor or Deputy Governor of the said Company for the time being to be always one, [shall think fit] :

[Admitted persons must first take the oath above prescribed] :

[Power to make and execute by-laws, impose punishments &c., levy fines &c., without impeachment or account &c.] :

<sup>1</sup> Pepys records their disputing in 1664 about the oath of the previous fishery company (see *ante*, p. 183), 'some that we should swear to be true to the best of

our power, others to the best of our understanding, and carried in the last,' which did displease him (*Diary*, iv., p. 178).



[Power to remove and replace any officer convicted of misdemeanour]:

[Power to assign shares in the stock provided that transfers be made openly at some General Court of Assistants registered, and that the transferors be not indebted to the Company]<sup>1</sup> or being so indebted do give the said Company satisfaction for the same before such transfer or assignment be allowed and registered, And also that such assignee, not being one of the said Company, before he or she be admitted to the said transfer or assignment or any benefit thereof, be first admitted a member of the said Company and take the [oath prescribed above; and every such assignee &c. shall thereafter upon registration] have claim and enjoy the same rights benefits and privileges as the assignor or assignors had or might have enjoyed:

And [We further grant to the said Company], from time to time when and so often as they shall think fit, to build rig man victual and set out to sea such and so many doggers<sup>2</sup> busses<sup>3</sup> and other fishing vessels as by the said General Court or Court of Assistants of the said Company for the time being shall be thought fit or convenient:

And also to fish in and upon all the coasts estuaries inlets creeks arms of the sea nooks lakes and public rivers of within and belonging to our Kingdom of England Scotland and Ireland or any of them or any other of our Dominions (whereof the fishings are not already granted appropriate or belonging to some other particular or private person or persons bodies politic or corporate), and likewise in and upon the main seas or any part thereof, with full and free liberty to carry and transport their fish and oil made of fish to all ports and markets both in England and beyond the seas, and also to sell the same there for ready money or by way of barter and exchange for any other commodities:

*And whereas* it is necessary for the better and more expeditious victualling and fitting out their fishing vessels and for their making quicker or more frequent returns, that the said Company have always in a readiness all sorts of stores and provisions requisite and necessary to be used in and about the fishing trade, We have for their better accommodation in that behalf given and granted, and by these presents for Us our heirs and successors We do give and grant, unto the said Company [&c.] and their successors full and free liberty power licence and authority to erect and build storehouses granaries warehouses and workhouses and to dry and amend their nets and make ropes and also

<sup>1</sup> As *ante*, p. 180.

<sup>2</sup> 'A two-masted fishing vessel with bluff bows, somewhat resembling a ketch, used in the North Sea deep sea fisheries,'

*N.E.D.*

<sup>3</sup> 'A two- or three-masted vessel of various sizes, used especially in the Dutch herring-fishery,' *N.E.D.*

to build and make wharves and stocks for the use of the said Company and their successors in and upon and out of any of the wastes commons or waste grounds of Us our heirs and successors adjoining unto or upon any public rivers or seas within any of our Dominions, without paying or rendering any rent or other duty whatsoever unto Us our heirs or successors for the same :

And our further will and pleasure is, and We do hereby for Us our heirs and successors declare and grant unto the said Company [&c.] and their successors, That all and every the masters skippers and steersmen of the several doggers busses and other fishing vessels of and belonging to the said Company and their ships' crews mariners fishermen and others who shall from time to time be employed by the said Company and their successors in and about their said fishery, as well foreigners as natives and subjects of this our said Kingdom of England, during such their respective employments shall not be empanelled summoned or sworn or compelled by any Sheriff Bailiff or other officer of Us our heirs or successors to serve on any juries or inquests at Westminster the Assizes or Sessions or elsewhere :

*And further know ye* that, for the greater encouragement and better enabling of the said Company [etc.] effectually to prosecute and carry on the said fishing trade, *of our more abundant grace certain knowledge and mere motion* We have given and granted [and hereby &c. do give &c. unto the said Company &c.] the yearly sum of twenty pounds<sup>1</sup> of lawful money of England for each and every respective dogger which they now have and are owners of or which within and during the time and space of seven years, to be accounted from the day of the date of these presents, they and their successors shall build or cause to be built in England or any other of our Dominions, To have hold receive perceive take and enjoy the said yearly sum of twenty pounds for each and every respective dogger which they now have [&c. or shall build as above] unto the said Company [&c.] and their successors, to the only proper use and behoof of the same Company and their successors for and during so much and so long time of the said seven years (to be accounted as aforesaid) as the same doggers shall respectively be employed in and about the said fishery and no longer, the same to be paid quarterly out of our Revenue arising by the Customs within our Port of London by the hands of the Cashier or Receiver General of the Customs of Us our heirs and successors for the time being, at the four most usual Feasts or days of payment in the year (that is to say at the Feasts of St Michael the Archangel, the Birth of our Lord Christ, the Annunciation of the Blessed Virgin Mary and the

<sup>1</sup> See *ante*, pp. cvi., cvii.



Nativity of St John Baptist) by even and equal portions, the first quarterly payment of the said yearly sum of twenty pounds for each and every respective dogger which the said Company now have and are owners of, to begin and be made on such of the said Feast days which shall first and next happen after the date of these presents, the first quarterly payment of the said yearly sum of twenty pounds [for each dogger to be built as aforesaid to begin at the first of such Feast days coming] after such dogger shall be actually employed by the said Company in the taking of fish :

Wherefore our will and pleasure is and We do hereby authorise require and command our High Treasurer of England Commissioners of our Treasury and Chancellor of our Exchequer for the time being that he and they respectively to whom it shall and may appertain do give warrants and directions from time to time for the due payment of the said monies on the days and times and in manner aforesaid according to our will and pleasure hereinbefore declared and the true intent and meaning of these presents without any further or other warrant or direction from Us our heirs or successors in that behalf :

[The Company to have all] privileges in our City of London as fully and freely as any Company of Merchants established by our Letters Patents or Charter heretofore granted by Us or any of our Predecessors at present do or may have use and enjoy :

And also We do hereby for Us our heirs and successors strictly charge require and command all and singular Admirals Vice-Admirals Generals Commanders Captains Mayors Sheriffs Justices of the Peace Customers Collectors Comptrollers Searchers Waiters<sup>1</sup> and all other officers ministers liegemen and subjects of Us our heirs and successors whatsoever [to be aiding helping and assisting &c. to the Company] as well on land as by sea whenever they or any of them shall be thereunto desired, as they tender our goodwill and pleasure and will answer the contrary at their peril :

And whereas by our Commission or Letters Patents under our Great Seal of England bearing date at Westminster the two and twentieth day of August in the thirteenth year of our reign<sup>2</sup> We did nominate make constitute ordain and appoint our said dear Brother *James Duke of York* and other the persons named to be the *Council of the Royal Fishing of Great Britain and Ireland* with several grants powers privileges and authorities therein particularly mentioned and expressed, which Commission hath not hitherto been put in execution

<sup>1</sup> See *ante*, p. 92 (1).

to Clarendon and others. See *ante*, Introduction, p. cv.).

<sup>2</sup> *Patent Rolls*, 13 Car. II., pt. xiii. dors. (and compare another grant, *ibid.*.

with any effect, *Now know ye therefore that We*, as well at the humble request of our said dear Brother and other the persons hereinbefore named members of the said Company of the Royal Fishery of England as for divers other good causes and considerations Us thereunto especially moving, have revoked annulled made void and determined and by these presents do absolutely revoke annul [&c.] our said Commission or Letters Patents and all and every the grants powers privileges authorities clauses matters and things whatsoever therein contained mentioned or expressed :

And lastly [validity and favourable construction clause], any omission uncertainty defect imperfection or contrariety in these presents contained or any law statute act ordinance proclamation provision or restriction or other cause matter or thing whatsoever to the contrary thereof in any wise notwithstanding :

Although express mention &c. :

In witness &c. witness our self at Westminster the five and twentieth day of September

*by writ of Privy Seal.*

## WHITE PAPER MAKERS.<sup>1</sup>

(Patent Rolls, 2 Jac. II., pt. x.)

JAMES THE SECOND *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas We* are informed that with great charge the making the best and finest sorts of writing and printing paper hath been brought to perfection here in England, which manufacture will employ many thousand of our subjects and will prevent vast sums of money being sent to foreign parts for paper imported hither, that, notwithstanding We have granted Letters Patents<sup>2</sup> for the sole benefit of making the said paper for fourteen years, yet the Patentees meet with insupportable difficulties and run great hazards which can no way be prevented but by incorporating them, and that without a joint stock of about one hundred thousand pounds so great a work can not be carried on nor be established within this our Kingdom,

*Know ye therefore that We*, being willing to give all fitting

<sup>1</sup> See Introduction, *ante*, pp. cviii.-cix.

<sup>2</sup> *Patent Rolls*, 1 Jac. II., pt. iv. ; a grant to John Briscoe for making paper

‘as good and as white as French or Dutch paper.’



encouragement to the trade and manufacture of making and perfecting writing and printing paper which We are satisfied may be of so great use and benefit to the public, *of our especial grace certain knowledge and mere motion* have granted ordained constituted and appointed and by these presents for Us our heirs and successors do grant ordain [&c.] that *John Dunston, Nicholas Dupein, John Briscoe, Adam de Cardonnell, Peter de Lanney, Elias de Gruthy, Richard Sprigg, Claude Bordiers, Henry Longueville, Paul Dupein, Robert Hill, Robert Shales, Abraham Wessell, Nathaniell Bladen and Louis Flourill,*<sup>1</sup> and all such persons as now have or at any time or times hereafter shall have any share or shares in the joint stock hereafter mentioned shall be and be called one body politic and corporate in deed and in name by the name of **The Governor and Company of White Paper Makers in England :**

[Perpetual succession ; power to plead and be impleaded, and to have a common seal] :

[Constitution :—one Governor, one Deputy Governor and thirteen or more Assistants ; *John Dunston* to be first Governor, *Nicholas Dupein* first Deputy Governor, and the others abovenamed the first Assistants, till June 24th next or further election] :

[Power to assemble ; ] and We do hereby for Us our heirs and successors grant and declare that the Governor and Deputy Governor and Assistants of the said Company for the time being or the major part of them (all of them having timely notice given them by the Governor or Deputy Governor for the time being) shall make and be called a Grand Committee (whereof the Governor or Deputy Governor to be always one), [with power to choose clerks, headles under-officers &c., and make laws &c., impose penalties &c., levy fines and retain them without account] ; And We do for Us our heirs and successors firmly enjoin and command all persons concerned to be obedient unto such by-laws orders and ordinances as shall be made approved and confirmed as aforesaid :

[Power to elect officers annually, (not less than thirteen nor more than twenty-three Assistants) ] in manner and form following, that is to say, The Governor and Deputy Governor to be elected out of the Assistants for the time being, and the Assistants to be chosen out of the Freemen of the said Company and all such persons who at the time of the election have any share in the said joint stock by the plurality of votes of all those who have any share in the said joint stock (timely notice being given [as aforesaid] ), And We do hereby also for Us our heirs and successors grant and ordain that every member of the said Company may deliver or send his votes in writing whensoever he shall

<sup>1</sup> Elsewhere in the charter spelt *Fleurie*.

have due and timely notice of such election or elections, and that all votes in every election of Governor Deputy Governor or Assistants shall be delivered or sent in writing and shall be perused and examined in open Court (the Governor Deputy Governor and the major part of the Assistants being present), and that each member shall have one vote for each share he hath in the said joint stock and no more, and that whenever there shall happen to be equality of votes in election of any officers or members of the said Company the Governor and in his absence the Deputy Governor for the time being shall have the casting vote :

And that no person shall be obliged to serve in the office of Governor and Deputy Governor oftener than one year in three years without his or their consent :<sup>1</sup>

[Refusal to take oath upon election as officer punishable with fine] :

And We do hereby for Us our heirs and successors declare our will and pleasure to be that all and every person and persons who have any grant for making writing paper or setting up and using any new invented instrument or engine useful in order thereto, or the assignees of such persons, shall and may be admitted into the said Company by the Governor Deputy Governor and Assistants thereof for the time being or the major part of them, so as such person or persons have not forfeited their grants but can make writing paper by those methods inventions or engines for which they obtained the said grants and have actually set up and made writing paper by their said methods inventions instruments or engines, he or they coming in within six months time after the enrollment of these presents and paying before his or their admission to the Treasurer of the said Company such sum or sums of money as shall appear to be his or their proportionable share of the stock thereof and further sums of money as by the said Company is agreed to be paid for their several arts and inventions of making writing paper and their charge in obtaining this grant, the said consideration money to be paid for the said art to be for the sole use and advantage of all those persons who are members of the said Company at the time of his or their admittance proportionable to their respective shares in the said joint stock or Company :

[Power to remove any officer] for misdemeanour or any reasonable cause, [and replace him or any officer dying or permitted to surrender office ; provision for oaths] :

<sup>1</sup> For the burden of office, cf. Gross, *Gild Merchant*, i. p. 75 ; Herbert, *Livery Companies*, i., p. 191. Governors frequently held office for many years together: see Cockayne's petition to be excused, *East India Court Books*, xxi., p. 279, in 1655.



[Power] to the said Governor Deputy Governor and Assistants and their successors or the major part of them (the Governor or Deputy Governor being always one) so often as they shall think necessary to appoint Sub-Committees and to summon and call together the officers and members of the said Company for the time being to such Courts and Committees as well in London as in any other place or places within our Realm [to consult &c.] :

[No one to be admitted an officer before taking the Oath of Allegiance and] the oath mentioned in the Act of Parliament for the well governing and regulating of Corporations made in the thirteenth year of the reign of His late Majesty King CHARLES THE SECOND,<sup>1</sup> [and also an oath for due discharge of office ; power to administer such oaths] :

And We do hereby for Us our heirs and successors give and grant to the said [Company] the sole power privilege and authority of making sizing and completely finishing all sorts of writing and printing paper with the impression of our Coat<sup>2</sup> of Arms or any other mark or marks that they shall think fit or proper to affix make or impress thereupon, and to carry on the said trade and manufacture by a joint stock for the term of fourteen years to commence from the day of the date hereof :

Strictly charging and commanding all and every person and persons bodies politic and corporate and all other our subjects of what estate quality or degree soever they be, within all and every our Kingdom and Dominions, that neither they nor any of them during the continuance of this our grant either directly or indirectly do use or put in practice the said art or manufacture of making writing and printing paper either in the waterleaf or otherwise separate from the said Company or joint stock, or in any manner imitate or make or cause to be made any subtraction from or addition to the same, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our royal command and further to be answerable to the said Governor and Company according to law :

And We do further for Us our heirs and successors give and grant unto the said Governor and Company and their successors full power and authority by themselves or any one or more of the Governor Deputy Governor or Assistants of the said Company for the time being and to their or any of their agents officers and servants with the warrant of the Lord Chief Justice of the King's Bench for the time being and the assistance of a Constable or any other lawful officer in the day time

<sup>1</sup> That it is not lawful, upon any pretence whatsoever, to take arms against the King (13 Car. II., stat. 2, c. 1). This

oath ('for several years last past generally omitted') was repealed by 5 Geo. I. c. 6.

<sup>2</sup> *Patent Roll* has 'Court.'

during the continuance of this our grant to break open doors in case of refusal and to open the same and make search in any place or places where they shall have any just cause to suspect that any person or persons infringe the liberties powers and privileges to the said [Company] hereby granted, and to proceed against the offenders according to law :

[Judges Justices &c. to be favouring aiding and assisting &c.] :

[Power to the Company] to take have purchase receive enjoy and possess to them and their successors for ever any manors lordships messuages mills waters rents services reversions lands tenements and other hereditaments whatsoever, so that the same manors [&c.] do not exceed the yearly value of six thousand pounds above all charges and reprises, and also goods and chattels of what nature value or kind soever, [and dispose of the same, Mortmain or other statutes notwithstanding ; power to our subjects to grant the same to the Company] notwithstanding the statute :

And We do also by these presents for Us our heirs and successors declare that We our heirs and successors will upon the humble petition of the said Governor and Company or their successors at any time or times hereafter grant to them and their successors such further powers and privileges as shall be necessary for the carrying on and improving the said manufacture, and to give our royal assent to such bill or bills as both Houses of Parliament shall think fit to pass and for confirmation of these presents or any further powers or privileges to the said Governor and Company and their successors in this behalf :<sup>1</sup>

[Grant to be valid and favourably construed, any defects or uncertainties acts statutes &c. notwithstanding] :

Although express mention &c.

Without fine in our Hanaper &c.

In witness &c., witness our self at Westminster the three and twentieth day of July

*by writ of Privy Seal.*

## FIRE OFFICE.<sup>2</sup>

(Patent Rolls, 4 Jac. II., pt. i.)

JAMES THE SECOND *by the Grace of God King of England Scotland France and Ireland, Defender of the Faith &c.*, To all to whom these presents shall come, Greeting :

*Whereas* our trusty and wellbeloved subjects *Sir John Parsons*

<sup>1</sup> For the subsequent statute, see *ante*, details appear in *Close Rolls*, 35 Car. II., p. cix. pt. v.

<sup>2</sup> See Introduction, *ante*, p. cxvii. Earlier



Knight, one of the present Sheriffs of our City of London, *Samuel Vincent* Esquire, *Nicholas Barbon* Doctor in Physic, and several other persons their partners did about six years since invent set up and have proceeded in a new undertaking for insuring houses from fire, now commonly called the *Fire Office*, and have settled several estates to the value of sixty thousand pounds or thereabouts in ground rents to be a fund for the answering and paying of all losses that should happen to the persons contracting with them for such insurances, and have since paid for such losses several sums of money amounting to near twenty thousand pounds,

Which said undertakings by the experience of the time past have been found to be of good public use for the quieting the minds of our subjects owners and inhabitants of houses and hath much raised the value of such houses in purchases and securities,

*And whereas* by reason of another undertaking lately set on foot and prosecuted by *William Hale* and *Henry Spelman*, Esquires, for insuring houses against fire by way of a mutual contribution called by the name of the *Friendly Society*,<sup>1</sup> the said *Sir John Parsons*, *Samuel Vincent*, *Nicholas Barbon* and partners are greatly discouraged and prejudiced in their said undertaking,

*And whereas* We have been graciously pleased at our Council Board to hear the matters in difference between the said *Sir John Parsons* [&c.] and partners and the said *William Hale* and *Henry Spelman* and partners,<sup>2</sup> and after several hearings thereupon being fully satisfied that the said *Sir John Parsons* [&c.] and partners did first invent set on foot and put in practice the way and method of insuring houses from fire and had settled the fund aforesaid and had engaged themselves in very great sums of money by contracts for insurances of houses to divers persons for thirty one years<sup>3</sup> or for other long terms of years before those of the *Friendly Society* began or appeared, We are graciously inclined to give due encouragement to the said *Sir John Parsons* and partners to proceed in a work of so great and public benefit and to give them some prospect of a reasonable compensation and recompense for their great industry hazard and damages sustained,

*Know ye therefore that We, of our especial grace certain knowledge*

<sup>1</sup> The proposals with draft policy appear in *Close Rolls*, 36 Car. II., pt. xiii., where it is named the 'Society for securing Houses from Loss by Fire by Mutual Contribution.' Its premium was 1s. 4d. for every £100 secured (all the companies charged double for timber houses). Liability for any one loss was limited to 30s.

per £100 (see Walford, *Insurance Cyclo-pædia*, iii., p. 456).

<sup>2</sup> See account from Council Minutes (*ibid.*, pp. 458-9).

<sup>3</sup> The Fire Office proposals in 1681 contemplated no longer term than 31 years (*ibid.*, pp. 447-8); its municipal rivals offered perpetual insurance (*ibid.*, pp. 451-2).

and mere motion, have given and granted and by these presents for Us our heirs and successors do give and grant unto the said *Sir John Parsons, Samuel Vincent, Nicholas Barbon*, and likewise to *Edward Noel* gentleman, *Samuel Tookie* gentleman, and *Henry Headley* gentleman, being partners in the said undertaking, their executors administrators and assigns, full and free licence liberty and lawful authority to continue in and proceed according to their said undertaking and method of insuring houses from fire during the term hereafter mentioned and to do all lawful acts and things necessary and requisite relating to the said undertaking and to regulate alter change or amend the same from time to time, so as it be not a greater charge to our subjects than the premiums or prices hitherto used by them :

And also to retain and keep such number of officers and servants as shall be convenient and necessary from time to time for the management of the said undertaking, and to distinguish such their servants by liveries or badges or such other distinctions as shall seem meet and convenient for the purposes aforesaid,<sup>1</sup> without the hindrance or interruption of Us our heirs or successors or of any the officers or ministers of Us our heirs or successors :

And also full power and authority during the said term to contract for and receive of and from any person or persons who shall be willing to pay the same, all and every such and the like premiums sums of money allowances and rewards for and in respect of the insuring such house or houses so from time to time to be contracted for, not exceeding the rates and sums of money by the said *Sir John Parsons* and partners or any of them heretofore taken and received,<sup>2</sup> and also to lessen diminish and reduce such rates sums of money and reward for such houses as shall be insured for the future in such manner as they the said *Sir John Parsons [Vincent, Barbon, Noel, Tookie, Headley]* and partners, their executors administrators or assigns] shall from time to time think fit :

And the better to enable them [the abovenamed] to execute perform and enjoy the licences powers privileges and authorities to them hereby granted, We have therefore thought fit to erect and establish, and We do hereby erect and establish, an Office for the purposes aforesaid, which shall be and be called **The Fire Office** or **The Office of Insurance of Houses from Fire** according to the method

<sup>1</sup> By 1690 there were many watermen and others in livery with badges, acting as fire extinguishers (see *ibid.*, p. 459). The Amicable Contributionship for Fire Insurance (unincorporated; see *Close Rolls*, 10 W. III., pt. v., and 13 W. III.,

pt. iii.) proposed in 1696 to keep watermen and give badges to twelve of them.

<sup>2</sup> The Fire Office premium was sixpence per £1 rent, the house value being taken at ten times the rent (see *Walford*, iii., p. 444; cf. *ante*, p. 208 (1)).



and undertaking already begun and set on foot by the said *Sir John Parsons* and partners and for registering of all and all manner of insurances policies of insurance and contracts for insuring houses from fire made or to be made by them the said *Sir John Parsons* [&c., their executors &c. as above]:

*And further We, of our more abundant grace certain knowledge and mere motion, have given and granted* [and hereby for Us our heirs &c. do give &c.] unto the said *Sir John Parsons* [and abovenamed persons] the said Office together with the said powers authorities and other the premises abovementioned for the intents and purposes aforesaid :

To hold exercise and enjoy the said Office and premises unto them [the abovenamed] according to their undertaking for and during such term and terms of years respectively for which they [the abovenamed] have before the day of the date of these presents undertaken made or granted any insurance or insurances as aforesaid not exceeding one and thirty years, in trust for the benefit of the [abovenamed] and all their partners in the said undertaking and fund of ground rents, their respective executors administrators and assigns, according to their several and respective estates and interests therein :

And, to the intent that they the said *Sir John Parsons* [&c. their partners executors &c.] may reap the full and whole benefit and advantage intended by our Royal grace and favour toward them, our will and pleasure is, and We do for Us our heirs and successors require and straitly prohibit charge and command the said *William Hale* and *Henry Spelman* their [executors administrators and assigns] and all and every other person or persons who now are or hereafter shall be undertakers for the insuring of houses from fire by way of mutual contribution called the Friendly Society, and all and every other person and persons whatsoever, that they and every of them respectively do from henceforth cease desist and forbear from further making or granting any policies of insurance of houses from fire and from further contracting [for such insurance] for and during the space of one whole year to be accounted from the date of these our Letters Patents :

And that from and after the expiration of the said term of one year no other person or persons whatsoever shall presume to set up erect or keep any other office or undertaking whatsoever for insuring of houses from fire in any other manner than as hereafter is limited and appointed :

And our royal intention and pleasure is that from and after the expiration of the said term of one year the said Undertakers for the said Friendly Society, having first obtained our royal authority in that behalf by our Letters Patents under our Great Seal of England and not otherwise, shall and may begin and proceed in their present method

of insuring houses from fire in manner following, that is to say, for and during the space of three months next ensuing the expiration of the said term of one whole year, and after the expiration of the said three months they the said Undertakers for the Friendly Society their partners agents and servants shall again forbear and desist in manner aforesaid for and during the next succeeding three months, And after the expiration of the said three months last mentioned wherein they shall have ceased and desisted as aforesaid, then the said Undertakers for the Friendly Society shall and may again proceed to insure or contract for the insurance of any house or houses as aforesaid for the then next ensuing three months and no longer, so as that a stop be put to the said Undertakers for the Friendly Society their agents and servants and all other persons whatsoever from making any further or new insurances or contracts for insuring any house or houses from fire for every other three months alternatively in course of time and at all times, after the expiration of the said term of one whole year above-mentioned, during the continuance of this our grant :

And the said *Sir John Parsons* [and partners as above, for themselves their partners heirs &c.] do covenant promise and agree to and with Us our heirs and successors by these presents that they the said *Sir John Parsons* [&c.] shall and will from time to time during the continuance of this our grant pay or cause to be paid into the hand of the Treasurer of the Ordnance of Us our heirs and successors for the time being, for the uses and purposes hereafter mentioned, the yearly sum of sixty pounds at the four most usual feasts or terms of the year, that is to say, the Annunciation of the Blessed Virgin Mary, Saint John the Baptist, Saint Michael the Archangel and the Birth of our Lord Christ, by even and equal portions, the first payment thereof to be made on the Feast of the Nativity of Saint John Baptist next ensuing :

And We do hereby for Us our heirs and successors direct and appoint that the said sum of sixty pounds shall from time to time be distributed by warrant from the Master General of the Ordnance for the time being and at his discretion to such of the gunners and other servants for the time being belonging to the Office of the Ordnance of Us our heirs and successors as shall from time to time assist the extinguishing of such fires, according to the respective services merits hazards and accidents of the persons employed therein :

[Direction to the Treasurer of the Ordnance to distribute accordingly as the said Master appoints], and the warrant of the said Master of the Ordnance shall be sufficient authority to the Treasurer of the Ordnance for the time being for payment of the said yearly sum of sixty pounds from time to time as aforesaid :



And We do hereby for Us our heirs and successors will require and command all and every the gunners and other servants of and belonging to the Ordnance of Us our heirs and successors and all others whom it may concern, to be in constant readiness and aiding helping and assisting to the utmost of their skill and power from time to time in the said service when and so often as occasion shall require :

And lastly our will and pleasure is [that this patent be good valid &c.,] notwithstanding the not truly and certainly describing or setting forth the said several undertakings or methods of insuring houses from fire or either of them, And notwithstanding the not particularly naming or mentioning of all or any the person or persons who are partners undertakers or adventurers in them or either of them respectively, And notwithstanding any [non-recital, misrecital, ambiguity &c.], And notwithstanding the statute made in the Parliament of our Royal Grandfather King JAMES in the one and twentieth year of his Reign,<sup>1</sup> or any law custom usage prescription act statute provision restriction or any other matter cause or thing whatsoever to the contrary in anywise notwithstanding :

In witness &c., witness the King at Westminster the xviii day of February,

*by writ of Privy Seal.*

## KING AND QUEEN'S CORPORATION FOR LINEN MANUFACTURE.<sup>2</sup>

(Patent Rolls, 2 W. & M., pt. iv.)

WILLIAM AND MARY, *by the Grace of God of England Scotland France and Ireland King and Queen, Defenders of the Faith &c.*, To all to whom these presents shall come, Greeting :

*Whereas* We are credibly informed that *Nicholas Dupin Esquire and Henry Million Gentleman*, at their own proper costs and charges and with continued pains and industry in foreign parts and at home, have found out several profitable arts and mysteries not heretofore used or practised in England, and the right and methodical ordering and managing the same, that is to say the art or mystery of preparing of hemp and flax for the making all sorts of sewing and working

<sup>1</sup> Nevertheless this grant was subsequently thought void for monopoly; see

*ante*, p. cxviii.

<sup>2</sup> See Introduction, *ante*, p. cix.-cx.

threads and tapes in the art of making and weaving all sorts of cambrics lawns diapers damasks bag holland<sup>1</sup> and all other sorts of linen cloth and sail cloth, also the making all such looms heckles and other engines not heretofore in this Kingdom used as are or may be necessary for preparing the threads and weaving working bleaching and finishing the aforesaid manufactures,

And for that the establishing the said manufactures in this Kingdom will be of very great advantage, greatly increasing the wealth thereof by employing many thousands of poor people of all sorts ages and sexes, both natives and foreigners, who for want of employment are burthensome to the parishes wherein they live, and likewise by the great increase of tillage sowing hemp and flax,

*And forasmuch as* so great and public an undertaking cannot be effectually performed any other ways than by a body corporate, for the furtherance whereof our trusty and wellbeloved *Craven Howard Esquire, Sir George Fletcher Baronet, Sir Gabriel Sylvius Knight, Robert Burdett Esquire, Richard Dyet Esquire, Robert Hooks Esquire, John Troughton Esquire, Nathaniel Herne Merchant, Francis Burdett Gentleman, John Bellmyer Gentleman, Thomas Harwell Gentleman, Peter Wallis Merchant, John Dunston Merchant, Richard Burnell Linendraper, Paul Defoure Merchant*, together with several others, out of their constant zeal to the public good have engaged themselves to become partners in the carrying on and necessary management of the same,

*Know ye therefore that We*, being willing to give all fitting encouragement to the aforesaid several arts trades and manufactures which We are satisfied may be of great use and benefit to the public, *of our especial grace certain knowledge and mere motion* have granted ordained constituted and appointed, and by these presents for Us our heirs and successors do grant ordain constitute and appoint, that the said [persons abovenamed, with *Nicholas Dupin and Henry Million*] and all such persons as now or at any time or times hereafter shall have any share or shares in the joint stock hereafter mentioned, shall be and be called one body politic and corporate in deed and in name by the name of **Governor and Assistants of the King and Queen's Corporation for the Linen Manufacture in England:**

[With perpetual succession, power to plead and be impleaded, and have a common seal]:

<sup>1</sup>Apparently *bag-holland* (cf. sack-cloth). (with 'bay holland' compare the 'Dutch The *Patent Rolls* read 'bagg'; conceivably bay' trade at Colchester, *ante*, p. xv. (1)). the word repeats a copyist's error for 'bay'



[Constitution ; one Governor, one Deputy Governor and] fifteen or more Assistants for the regular governing and managing the said Society and manufactures of linen and other the things aforesaid :

[Officers nominated :— Governor, *Craven Howard* : Deputy Governor, *Nicholas Dupin* : Assistants, *Fletcher, Sylvius, Robert Burdett, Dyet, Hooks, Troughton, Million, Herne, Francis Burdett, Bellmyer, Harwell, Wallis, Dunston, Burnell and Defoure*, till March 25th next and then till further election] :

[Power to hold a Court in London and Westminster, and there meet and consult ; power to adjourn Court to any place in England] :

[Formation of a Grand Committee<sup>1</sup> with power to] choose one or more Solicitor or Solicitors, Secretary or Secretaries, Auditor or Auditors, Comptroller or Comptrollers, Surveyor or Surveyors, Clerks and Beadles and such and so many other under-officers as shall be necessary for the service of the said Company :<sup>2</sup>

[Power to make laws &c. and impose reasonable fines], the same being approved and confirmed according to the Statute in that case provided :<sup>3</sup> [power to recover fines &c., if laws be reasonable &c. : all persons to obey the by-laws &c.] :

[Power to elect annually a Governor and Deputy Governor from the Assistants and not less than fifteen nor more than twenty-two Assistants from the freemen and shareholders ; votes to be sent in writing and be perused in open Court ; one vote for each share ; provision for a casting-vote ; oaths to be taken before admission to office ; no one need serve as Governor or Deputy Governor oftener than one year in three ; refusal to take oath upon election punishable with fine] :<sup>4</sup>

[All persons who have grants under the Great Seal of England] for preparing hemp and flax as aforesaid or for the spinning weaving bleaching or finishing of any sort of linen cloth threads tapes or manufactures of linen or for the setting up or using any new invented instrument or engine useful in order thereunto [or their assigns may be admitted into the Company provided that they have not forfeited their grant but can make, and actually have made, linen &c. under it, they coming in within six months' time, and paying proportionate sums] :

<sup>1</sup> As *ante*, p. 204.

<sup>2</sup> The Amicable Fire Insurance 'Contributionship' of 1696 (*ante*, p. 209 (1)) was to have 'one or more standing Counsel,'

as well as 'one or more standing attorneys.'

<sup>3</sup> See *ante*, pp. xcix. (1), 127 (1).

<sup>4</sup> As *ante*, pp. 204-5.

[Power to remove and replace officers &c.] and to appoint sub-committees as shall by adjournment be together the officers and members of the said Corporation for the time being as well to such Courts and Committees to be held in London and Westminster as to such other Courts and Committees as shall by adjournment be held in any other place or places within our Kingdom of England and Dominion of Wales [in manner as before directed, to consult &c.]:<sup>1</sup>

And that no person shall be admitted into any office belonging to the said Company until he hath first taken in open Court before the Governor or Deputy Governor of the said Company the Oaths appointed by Act of Parliament made in the first year of our reign, intituled an Act for abrogating the Oaths of Supremacy and Allegiance and appointing other Oaths,<sup>2</sup> and an oath for the due execution of his or their office or offices and trust and faithful observance of the laws constitutions orders and ordinances of the said Company : [the officers hereby nominated shall take oath before the Chief Justice of the King's Bench or of the Common Pleas, or before the Lord Mayor of London : power to administer oath] :

[All Judges Justices Mayors Sheriffs &c. to be favouring and assisting] :

[Power to take and enjoy] manors lordships messuages mills waters streams rents services reversions lands tenements and other hereditaments, [the net yearly value not to exceed £6000, and chattels privileges &c. : power to our subjects to grant the same] :

And We do hereby for Us our heirs and successors give and grant unto and to the said Governor and Company and their successors full power and authority to make and raise a joint stock of any value whatsoever, and the same joint stock to order manage and carry on from time to time for the better promoting and putting in practice the said arts mysteries and manufactures, and to receive the benefit and advantage of the same to the use of them the said Governor and Company and their successors according to such shares and proportions as they or any of them have or shall have therein, And the same joint stock to augment, and increase or reduce and diminish from

<sup>1</sup> The charter in these and the previous clauses follows that of the White Paper Makers (see above, pp. 203-7).

<sup>2</sup> 1 W. & M. c. 8. The oaths were (i) allegiance to their Majesties, and (ii) abjuration of 'that damnable doctrine and position that Princes excommunicated or

deprived by the Pope, or any Authority of the See of Rome, may be deposed or murdered by their subjects or any other whatsoever,' and declaration that no foreign power has any jurisdiction within this Realm.



time to time as they the said Governor and Company or their successors shall find most fitting and convenient :

*Provided always* that nothing in this our grant contained shall extend to prejudice or hinder any private person or persons, being our subjects, to manufacture any hemp or flax or to expose the same to sale in such manner as hath been heretofore by them used and accustomed within this our Kingdom, Anything abovementioned to the contrary notwithstanding :

And lastly We [hereby grant that this patent shall be valid and favourably construed], Notwithstanding the not describing or not truly or rightly or ill describing setting forth or mentioning the several arts mysteries inventions or manufactures aforesaid or any of them or of any the said new invented engines machines instruments or other things used or to be used in or about the same, or any the materials thereunto belonging, or any the methods ways manners or means of exercising or practising the said arts inventions manufactures or any of them, or any nonrecital misrecital defect incertainty contrariety or imperfection in these our Letters Patents, or any other matter cause or thing whatsoever to the contrary thereof in any wise notwithstanding :

And our will and pleasure is that these presents &c. without fine or fee &c. in our Hanaper &c.

In witness &c. witness the King and Queen at Westminster the seven and twentieth day of May

*by writ of Privy Seal.*

## COPPER MINERS IN ENGLAND.<sup>1</sup>

(Patent Rolls, 3 W. & M., pt. v.)

WILLIAM AND MARY, *by the Grace of God King and Queen of England Scotland France and Ireland, Defenders of the Faith, &c.*, To all to whom these presents shall come, Greeting :

*Whereas* great quantities of copper ore are found in divers parts of this our Kingdom, which, for want of skilful agents to refine and purify the same, is totally neglected and unimproved to the great

<sup>1</sup> See Introduction, *ante*, p. ci. An extension of this grant to Ireland is printed *post*, pp. 219-220.

loss and detriment of this our Kingdom in general, vast sums of money being yearly remitted to foreign parts to pay for the said commodity,

*And whereas* our trusty and wellbeloved subjects *Sir Joseph Herne Knight, John Briscoe, Francis Tissen, Esquires, Samuel Howard and Richard Munford*, of London, merchants, have set forth that they have found out several furnaces engines and other ways methods and inventions for the more easy and effectual melting down refining and purifying the same that have not hitherto been used or practised in these our Dominions by any other of our subjects,

*And whereas* they have most humbly besought Us to incorporate them and divers others hereinafter mentioned to manage and carry on the same by a joint stock,

*Now know ye that We*, being desirous to promote all endeavours tending to the public good of this our Kingdom and to encourage so commendable an undertaking, *of our especial grace certain knowledge and mere motion* have given granted constituted declared and appointed and by these presents for Us our heirs and successors do give grant [&c.], that our trusty and wellbeloved subjects *Sir Joseph Herne Knight, Francis Parry Esquire, Francis Tissen Esquire, Constantine Vernatti Esquire, John Briscoe, Samuel Howard, Richard Munford, Francis Gosfright, Nicholas Cutler, Henry Tate, John Barkstead and Thomas Chambers*, and such others as shall be admitted into the said Society, henceforth be and shall be one body corporate and politic in deed and in name by the name of **The Governor and Company of Copper Miners in England:**

[To be fully corporate for ever, with perpetual succession and capacity in law to take lands mines mills houses rents privileges &c. and other hereditaments of any kind, to dispose of the same &c., to plead and be impleaded, and have a common seal]:

[Constitution:—one Governor, one Deputy Governor and ten or more Assistants]:

[First officers nominated:—Governor, *Herne*: Deputy Governor, *Parrey*: Assistants, *Tyssen, Vernatti, Briscoe, Howard, Munford, Gosfright, Cutler, Tate, Barkstead and Chambers*: all to hold office till Sept. 29th 1692 or further election]:

[Power to hold Courts in London Westminster England or Wales, and there meet &c.; provision for constitution of committee (quorum of seven officers &c.), who may choose Treasurers, Secretaries, Book-keepers, Clerks, Beadles or other officers]:

[Power to make laws, and impose punishments, recover fines &c.:



to appoint sub-committees and summon officers and members to consult and enforce by-laws &c.] :

[Provision for annual election by shareholders of Governor, Deputy Governor and from ten to eighteen Assistants ; the Governor or Deputy Governor shall call a Court for such election] and shall give fourteen days notice in writing of the same to all persons interested in the Company : <sup>1</sup>

[Directions for voting ; Oaths of Allegiance and Abjuration, and oath for faithful discharge of duties, to be taken before entering upon office ; provision for replacing officers who die or are removed] :

[Power to remove and disfranchise subscribers who after twenty days' warning make default in their subscriptions] :

[The first Governor to swear his corporal oath before the Lord Chief Justice of the King's Bench or the Lord Mayor of London, others as reasonably devised &c.] :

[Judges Justices Mayors Sheriffs &c. in England and Wales to be favouring and aiding] :

[Power to take and possess manors &c.] : <sup>2</sup>

[Power to make and raise a joint stock of any value, and to receive the benefit in proportion of shares] :

[Validity and favourable construction clause], any defects or uncertainties in these presents contained or any matter cause or thing whatsoever to the contrary in any wise notwithstanding :

In witness &c., witness our selves at Westminster the third day of August

*by writ of Privy Seal.*

<sup>1</sup> This provision was afterwards varied. A patent of 1711 (*Patent Rolls*, 9 Anne, pt. vi.) recites this charter and continues :— And whereas the said Governor and Company have humbly represented unto Us that the giving notice in writing of such election or elections to all persons interested in the said Company pursuant to the letter of the said Charter is altogether impracticable, [and they beseech Us to confirm their former privileges and to confirm in office the present acting officers] although strict and regular notice according to the said Charter was not given of the time of their election . . . and also that instead of the notice in writing of the time of

holding the said Court appointed to be given by the said Charter, public notice in the London Gazette may be sufficient, [and that the date may be altered from September 29th to March 25th].

*Now know ye that We* [confirm the corporate privileges and the election of the present officers accordingly, and alter the date as required, and allow notice of Courts for elections &c. in future to be by] public notice inserted in the London Gazette fourteen days or more before every such [Court or election] as is usually practised by other Companies.

<sup>2</sup> As in Linen Manufacturers' charter above, p. 215 (adding 'mines').

COPPER MINERS IN ENGLAND—EXTENSION TO  
IRELAND.<sup>1</sup>

(Patent Rolls, 3 W. &amp; M., pt. v.)

WILLIAM AND MARY &c., To all to whom these presents shall come, Greeting :

*Whereas* by our Letters Patents [dated August 3rd <sup>2</sup> certain privileges were given],

*And whereas* the said Governor and Company have informed Us that there are great quantities of copper ore in several parts of our Kingdom of Ireland, which for want of skilful agents to refine and purify the same is totally neglected and unimproved, wherefore they have humbly besought Us to enlarge their powers to extend as well to Ireland aforesaid as to this our Kingdom,

*Know ye therefore that We*, being willing to give all due encouragement to the said Governor and Company in promoting and carrying on the said arts and mysteries within our said Kingdom of Ireland which We are satisfied may tend to the public benefit and advantage of our subjects, *of our especial grace certain knowledge and mere motion* have willed ordained granted constituted and appointed, and by these presents for Us our heirs and successors do will ordain [&c.], that the said Governor and Company and their successors agents servants and assigns shall and may hereafter use exercise and put in practice the said several arts and mysteries of melting down purifying and refining of copper ore as also all and singular the powers and licences liberties privileges and authorities granted in and by the said recited Letters Patents in any part or parts whatsoever within our said Kingdom of Ireland as fully and amply to all intents and purposes as if they the said Governor and Company were incorporated within our said Kingdom of Ireland and as fully as the said Governor and Company either in their corporate capacity or by their officers agents and servants or by any other lawful ways or means can or may use or exercise the same within any part of this our Kingdom of England and as if the same powers authorities liberties and privileges were again particularly recited in these our Letters Patents, [subject to the restrictions in the said grant contained] :

<sup>1</sup> See Introduction, *ante*, p. ci. A pt. viii.  
similar extension, to New England, may be  
found in the *Patent Rolls*, 3 Wm. & M.,

<sup>2</sup> *Patent Rolls*, 3 Wm. & M., pt. v.,  
printed above, pp. 216-8.



[Power to appoint sub-committees &c., secretaries, accountants, comptrollers, auditors, receivers &c., for the business in Ireland]:

[All Governors Mayors Bailiffs Justices Provosts Sheriffs Magistrates Commanders Justices Constables &c., to be aiding &c.] :

[Validity and favourable construction clauses, in Irish as well as English Courts, notwithstanding omissions in describing the means of exercising the arts &c., misrecital, non-recital &c.] :

*Provided always* that these our Letters Patents be enrolled in our Court of Chancery in our Kingdom of Ireland within the space of twelve months next ensuing the date hereof :

In witness &c., witness our selves at Westminster the xxiind day of September,

*by writ of Privy Seal.*

## HOLLOW SWORD BLADES COMPANY.<sup>1</sup>

(Patent Rolls, 3 W. & M., pt. vii.)

WILLIAM AND MARY *by the Grace of God of England Scotland France and Ireland King and Queen, Defenders of the Faith &c.*, To all to whom these presents shall come, Greeting :

*Whereas* for want of knowing the art of making hollow swords and blades within this our Kingdom of England great sums of ready money are yearly exhausted from hence and sent unto foreign parts for the purchasing and having of the said commodity by the subjects of this our Realm,

*And Whereas* our trusty and wellbeloved subjects *Sir Stephen Evance Knight, Abraham Dashwood, John Samford, Robert Peter, Peter Justice and Thomas Evans*, merchants, by their Petition<sup>2</sup> to Us have set forth that at their great charge and management they have imported from foreign parts divers persons who have exercised and have used in their own country the said art of making hollow sword blades by the use of certain new invented instruments engines and mills and by the contrivance of our said subjects have been prevailed with to expose themselves even to the hazard of their own lives to impart to them our said subjects the knowledge of the said art secret or mystery which will bring great advantage to this our Kingdom in general,

*And whereas* our said loving subjects have by their said Petition

<sup>1</sup> See Introduction, *ante*, pp. cxiii.-cxiv.

<sup>2</sup> *Petition Entry Books*, 235, p. 182.

proposed to Us that they are ready to make appear that the said hollow sword blades made and to be made in this our Kingdom by the use of the said instruments engines and mills are and will prove full as good useful and serviceable to Us and our subjects and allies as any of such kind can or might do which are or might be imported into this Kingdom from foreign parts, And also that the said art of making the same was never yet known or practised by any of our subjects of this our Realm, And have therefore most humbly besought Us to incorporate them and divers others hereinafter mentioned to manage and carry on the said art or mystery by a joint stock,

*Now know ye that We*, being desirous to promote all endeavours tending to the public good of this our Kingdom and to encourage so very useful and commendable an undertaking, *of our especial grace certain knowledge and mere motion* have given granted constituted declared and appointed, and by these presents do give grant [&c.] that the said *Sir Stephen Evance*, our trusty and wellbeloved *Peter Reneu*, *Francis Tissen*, *Mathias Evans*, *John Carter*, *John Holland*, merchants, the said *Abraham Dashwood*, *John Samford*, *Robert Peter*, *Thomas Evans* and *Peter Justice*, and our trusty and wellbeloved *John Reneu*, *William Reneu*, and *John Baker*, merchants, and such others as shall be admitted into the said Society or shall have any interest in the joint stock hereafter mentioned, from thenceforth be and shall be one body politic and corporate in deed and in name by the name of **The Governor and Company for making Hollow Sword Blades in England** :

[By that name to be fully incorporated for ever : to plead and be impleaded &c.] as fully and amply as any of the subjects of this our Realm so incorporated may or can do :

[To have perpetual succession, and power in law to execute and do all things appertaining] :

And that the said Governor and Company and their successors agents workmen and servants may from time to time use such mark as to them shall seem meet, for the distinguishing such hollow sword blades as they shall make from foreign or other blades :

And may also have a common seal [&c. ; power to alter the mark or seal] :

[Constitution :—one Governor, one Deputy Governor and twelve or more Assistants] :

[First officers nominated : Governor, *Sir Stephen Evance* : Deputy Governor, *Peter*<sup>1</sup> *Reneu* : Assistants, *Tissen*, *Matthew Evans*, *Carter*, *Holland*, *Dashwood*, *Samford*, *Robert Peter*, *Thomas Evans*, *Justice*,

<sup>1</sup> The Patent Roll reads 'Percy'



*John and William Reneu, and John Baker* : to continue till 29 Sept. 1692 or further election] :

[Power to hold Courts in London, Westminster or elsewhere in England : there to meet and consult upon the affairs of the Company] ;

[Formation of Committee, with power that the said Governor Deputy Governor and Assistants or any five or more of them, timely notice being given by the Governor or Deputy Governor for the time being to all the Assistants, shall make and be called the Committee of the said Company, whereof the Governor or Deputy to appoint Treasurers &c., under-officers and sub-committees ; power to make laws &c. and after Sept 29th 1692 to choose, annually on that day or within fourteen days after, officers for the following year ; the number of Assistants not to exceed sixteen ; power to augment that number before Sept. 29th 1692 up to sixteen] by the plurality of votes of all such who have or shall then have any share or shares or interest in the joint stock hereafter mentioned :

[Governor to call a yearly Court on or about Sept. 29th ; provision for notice and for method of voting] :

[Directions as to taking oaths before office ; power to remove and replace officers, and to remove defaulting subscribers] :

*And of our more abundant grace certain knowledge and mere motion*  
We have given and granted, And do hereby for Us our heirs and successors give and grant, unto the said Governor and Company and their successors agents workmen and servants the sole power privilege and authority of using and exercising the said instruments engines and mills for making hollow sword blades within this our Kingdom of England and all other our Dominions, also the sole profit benefit and advantage from time to time arising or to be made by or out of the said invention [&c.] for the term of fourteen years from the date of these presents according to the Statute in that case made and provided :

And We do hereby strictly charge and command all and every person and persons bodies politic and corporate and all other our subjects of what estate degree or quality soever they be within all and every our Kingdoms and Dominions, that neither they nor any of them at any time during the continuance of this our grant either directly or indirectly do put in use or practice the said instruments engines or mills, or in any manner imitate make or cause to be made any subtraction from or addition to the same upon such pains and penalties as can and may be justly inflicted on such offenders for their contempt of this our Royal Command, and further to be answerable to the [Company] according to law for their damages thereby sustained :

[Justices Mayors Sheriffs &c. in England and Wales to be favouring aiding &c.] :

[Licence to purchase &c. manors &c. not exceeding the clear yearly value of £500, and also goods of all kinds &c.] :

[Power to raise a joint stock of any value] :

[Validity and favourable construction clause], notwithstanding the not describing setting forth or mentioning the said invention of making hollow sword blades or of any the engines mills methods ways or means by which the same invention is or may be used or put in practice, or of any of the instruments materials or ingredients used in and concerning the same, [or any non-recital &c.] :

In witness &c., witness our selves at Westminster the thirteenth day of October

*by writ of Privy Seal.*

## CUMBERLAND PEARL-FISHERS <sup>1</sup>

(Patent Rolls, 4 W. & M., pt. ii.)

WILLIAM AND MARY *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas* We have been informed by the humble Petition <sup>2</sup> of *Thomas Patrickson*, gentleman, that he having a lawful right and interest of fishing in the rivers of Irt and End <sup>3</sup> and other waters in our county of Cumberland is desirous to erect a fishery in the said rivers and other waters in the said county for setting the poor at work (of which there are great numbers thereabouts) in fishing for shell-fish commonly called horse mussels or mother of pearl,

But inasmuch as, the said work requiring a great expense in maintaining and paying so many poor people as are requisite to be employed therein and the profit arising thereby being very uncertain till the same be brought to maturity and perfection, the said fishing cannot be effectually carried on without a joint stock to be contributed by several persons who will be concerned therein with him,

*And whereas* the said *Thomas Patrickson* hath humbly besought Us by the said Petition to grant our Letters Patents of incorporation to

<sup>1</sup> See Introduction, *ante*, pp. cvii.-cviii.

<sup>2</sup> *Petition Entry Books*, 235, p. 221 (*ante*, p. cviii.).

<sup>3</sup> The Irt flows from Wastwater to the sea; the End is probably the river Ehen,

which runs seaward from Ennerdale Lake. How, or Castlehow, Patrickson's home, was in Ennerdale. Dr. Parker (*The Gosforth District*, p. 169) says the pearls are still to be found.



him and such other persons as will be concerned with him for the carrying on and managing of the said fishery in such manner and with such powers privileges and restrictions as We in our royal wisdom shall think fit,

*Know ye therefore that We, graciously affecting the welfare and good estate of our subjects and being willing to give all fitting encouragement to the aforesaid undertaking, of our especial grace certain knowledge and mere motion have granted ordained constituted and appointed and by these presents for Us our heirs and successors do grant ordain [&c.] that the said Thomas Patrickson and also our trusty and wellbeloved Samuel Summerford Esquire, Daniel Feild, Giles Redman, Hugh Redman, Charles Middleton, Richard Haynes, Harry Limbrey, John Blake and Henry Harbin, of London, merchants, and all such persons as now have or at any time or times hereafter shall have any share or shares in the joint stock hereafter mentioned, shall be and be called one body politic and corporate in deed and in name by the name of **The Company of Pearl-fishers in the Rivers of Irt and End**, and by that name they and their successors shall have succession for fourteen years to be accounted from the day of the date of these our Letters Patents :*

[Power to plead and be impleaded &c., and have a common seal] :

[Constitution : a Governor, Deputy Governor and eight or more Assistants ; *Thomas Patrickson* to be first Governor, *Samuel Summerford* first Deputy, and the others abovenamed first Assistants, till the first of May or further election] :

[Power] to hold a Court or Courts in any hall or place within our City of London or elsewhere, and there to assemble [&c. ; provision for a Grand Committee ; power to choose] a Treasurer one or more Solicitor or Solicitors Secretary or Secretaries Auditor or Auditors Comptrollers Surveyors Clerks Beadles and such and so many other under-officers as shall be necessary for the said Company :

[Power to make laws &c., punish offenders, impose and levy fines &c., without rendering account ; all persons concerned We order to obey the laws ; power to choose officers annually ; provision for voting ; one vote for each share, Governor or Deputy to have casting vote ; no officer to be admitted without oath ; no one need serve as Governor or Deputy more than one year in three ; forfeits of oaths not taken before office ; power to remove officers, and to appoint sub-committees ; no one to be admitted to office before taking the statutory oath <sup>1</sup> and an oath for due discharge of office] :

[Justices of the Peace, Mayors, Sheriffs &c., to be aiding &c.] :

[Power to remove defaulting subscribers] : And We do hereby

<sup>1</sup> As *ante*, p. 215.

for Us our heirs and successors direct and command that no person or persons whatsoever shall at any time hereafter be chosen Assistant of the said Company who hath not five shares at least in the joint stock of the said Company :

[Power to make and raise a joint stock of any value whatsoever, and to manage augment or reduce it] :

*Provided always* and our express will and pleasure is that the said joint stock and the several privileges powers and authorities hereinbefore granted and the Corporation or Company hereby established shall continue for the term of fourteen years to be accounted from the day of the date of these our Letters Patents and no longer, And that immediately from and after the expiration of the said term of fourteen years these our Letters Patents and every article clause and thing therein contained shall cease determine and be void, Anything before herein contained to the contrary thereof in any wise notwithstanding :

In witness &c., witness our selves at Westminster the four and twentieth day of March

*by writ of Privy Seal.*

## TAPESTRY-MAKERS' COMPANY.<sup>1</sup>

(Patent Rolls, 4 W. & M., pt. iii.)

WILLIAM AND MARY *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas* it hath been represented to Us that our late Royal Uncle King CHARLES THE SECOND, by his Letters Patents bearing date the fifteenth day of October in the nineteenth year of his reign,<sup>2</sup> taking notice that divers houses in Mortlack had been used in making of tapestry, to the freehold and inheritance whereof the Crown was entitled, and that the art of making tapestry in England was first set up at the great charge of his Royal Father King CHARLES THE FIRST and was brought to great perfection but that of late the looms had been deserted, whereby many of his subjects lost their employment and the Kingdom was in danger of losing the growth and perfection of the said art, did grant to the *Earl of Sunderland* and *Henry Brounker* Esquire (afterwards *Lord Viscount Brounker*) the said houses and all the goods utensils looms and designs used or prepared for the making of tapestry, and that the making thereof was set up in the said houses immediately after the Patentees had possession thereof and continued ever since,

<sup>1</sup> See Introduction, *ante*, pp. cx.-cxi.

<sup>2</sup> *Patent Rolls*, 19 Car. II., pt. i. (see *ante*, p. cxi.)



But, the effectual carrying on of so great an undertaking requiring very great sums of money, for want whereof the said art had not been improved to such perfection nor such quantities of tapestries made as was expected, And We being also informed that divers of our loving subjects are willing to attempt the effectual carrying on of this manufacture by a joint stock, and have agreed to advance very considerable sums of money in the undertaking, not doubting to bring the same to good perfection, if We would be graciously pleased to erect them into a Corporation (the *Earl of Montague*, in whom the sole estate and interest in the said houses and materials is now vested, being also willing for the public good to transfer the same unto them) with power of making laws and constitutions and other powers usually granted to bodies corporate without which they do not think it safe to venture so much money as will be requisite nor can they otherwise regulate and improve the said manufacture as they intend,<sup>1</sup>

*Know ye therefore that We*, being graciously pleased to give all due encouragement for the promoting and carrying on of all such arts and manufactures as are or may be of public use or benefit and in particular of the art or mystery of making tapestry and carpets within this our Kingdom, *of our especial grace certain knowledge and mere motion* have ordained constituted and granted, and by these presents for Us our heirs and successors do ordain [&c.] that the persons hereinafter named and such others as shall from time to time be admitted into the Society or body politic hereinafter constituted shall be one body corporate and politic in deed and in name and shall have continuance for ever by the name of **The Governor and Company of Tapestry-makers in England**:

[By that name We fully incorporate them &c., with perpetual succession, capacity to have purchase &c. manors &c. and all manner of goods &c. ; power to plead and be impleaded and to have a common seal] :

[Power to meet in London and elect a governor and] one of the Assistants of the said Company for the time being in manner and form hereinafter mentioned who shall be and be called the Deputy or Sub-Governor of the said Company, [also twenty-eight Assistants] :

[Power to ordain laws &c. and impose penalties &c.] :

[*Ralph Earl of Montague* to be first Governor, for life, after taking corporal and statutory oaths] in the Court of Assistants before our trusty and wellbeloved subject *Deane Monteage* of London, merchant : [the latter to be first Deputy Governor till next Michaelmas &c., after taking oaths &c. : *Deane Monteage*, *Thomas Neale* Esquire, *Robert Monckton*, *Thomas Maul*, *Henry Harris*, *John Watson*, *Hugh Redman*, *John Holland*,

<sup>1</sup> As in the petition, *Petition Entry Books*, 235, p. 177 (*ante*, p. cxi.).

*Ebenezer Dimwell, Newdigate Owsley, James Moyer, Oliver Andrews, Thomas Owsley, Edward Nelson, John Montage, Thomas Williams, Henry Fendall, Peter White, Francis Baker, John Chambers, Samuel Foot, Abraham Wright, Nicholas Cutler, Thomas Chambers, John Smith, Peter Vansittard, Peter Hudson, [—] Carpenter, and Nathaniell Molyneux,* to be first Assistants, for life,] unless they or any of them sell or dispose of their interest and stock in the tapestry works of the said Company so that he or they shall not have therein to the value of five pounds each person, or unless removed for misbehaviour or other just cause : [oaths to be taken &c.] :

[Grant] that the Deputy Governor and Assistants of the said Company for the time being or the major part of them (whereof We will that the Deputy Governor for the time being to be one) shall and may have full power and authority in a Court of Assistants at any time within six weeks after the decease or resignation of the said *Earl of Montague* to elect and nominate one of the Assistants of the said Company for the time being into the office of Governor of the said Company, to continue [therein till the next Michaelmas &c. : thereafter yearly at Michaelmas] unless it happen to be a Sunday and then on the Monday following, [to choose a Governor for the following year : oaths to be taken &c.] :

[Power to replace officers who die or are removed, or any Assistant who reduces his interest in the tapestry works below the value of five pounds] :

[Power to choose a Clerk and other inferior officers] to continue in their said several offices during the pleasure of the said Governor and Assistants for the time being or the major part of them : [oaths to be taken &c.] before the Governor or Deputy Governor or the two eldest Assistants of the said Company for the time being, to whom respectively We do hereby for Us our heirs and successors <give full power and authority to give and administer the said oath accordingly,

And further We do hereby for Us our heirs and successors> <sup>1</sup> strictly charge and command all and every our officers ministers and subjects whatsoever that neither they nor any of them do in any wise inveigle or carry away from the service of the said Governor and Company for the time being any of their servants agents or workmen who shall be hired for any certain time into the service of the said Company for or concerning the making of tapestry aforesaid or any instruments or materials relating thereunto :

In witness &c., witness our selves at Westminster the xiith day of April

*by writ of Privy Seal.*

<sup>1</sup> The Patent Roll omits the words within these brackets.



LEAD SMELTING COMPANY.<sup>1</sup>

(Patent Rolls, 4 W. &amp; M., pt. vii.)

(NOTE.—*The form of this Charter corresponds closely with that of one granted to the Ironmakers' Company in the following year (Patent Rolls, 5 Wm. & M. pt. vii.<sup>2</sup>). The passages in which the latter differs are printed in interlineated italics for purposes of comparison.*)

WILLIAM AND MARY *by the Grace of God*, Unto all to whom these presents shall come, Greeting :

*Whereas We* are desirous to encourage the opening and working of *iron*

lead mines, and yet nevertheless as far as the same may be done to preserve the timber and wood growing in this our Kingdom,

And it having been represented to Us by the Petition <sup>3</sup> of our trusty

*Talbot Clerke and Thomas Addison,*

and wellbeloved subjects *Constantine Vernatty, Thomas Addison, and Esquires,*

*George Moore and Henry Corbett*

*Thomas Nix, Esquires, John Moore and George Moore, of London,*

*concerned with them that*

merchants, on behalf of themselves and others that they with great *they with great study care and expense have brought to practice and industry study and expense have by several furnaces ways engines perfection by the use of pitcoal to melt or smelt down all sorts of iron ore iron methods and means not hitherto found out or put in practice a very stone slags cinders and broken cast or damaged iron, and to make the same into useful way of smelting down purifying and refining lead ore with pit good merchantable bar iron and other iron and also into guns bullets and other coal and sea coal and making the same into good and merchantable utensils*

lead fit for all uses, which will be of great advantage and use to this

*iron mines*

Kingdom in general by working and improving several lead mines

*which now lie unwrought*

*or melt down*

which are now altogether neglected for want of wood to smelt and melt *and recast*

down the same and will save the consumption of great quantities

*spent in smelting melting and recasting iron, and will*

of wood which are now daily spent in smelting of lead, and will *likewise save the remitting great sums of money to foreign parts which* promote the vending of lead by reason the same can be smelted at

<sup>1</sup> See Introduction, *ante*, p. cii.

<sup>3</sup> See *ante*, p. cii.

<sup>2</sup> See *ibid*.

*annually have been done to buy the same*  
cheaper rates by pit coal and sea coal than it can with wood,

*many*

And also humbly representing unto Us that it will require a *con-*  
*thousand pounds stock to put the said undertaking in the several parts of this King-*  
siderable stock effectually to carry on the said undertaking for  
*dom in practice to the best advantage of the public and the several persons con-*  
cerned therein, . . . . .

the most advantage of the public, and to that end have humbly be-  
sought Us to incorporate them and others for the purpose aforesaid, the  
better to enable them to manage and carry on the same by a joint stock,

*Know ye therefore that We, being desirous to promote all endeavours*  
tending to the public good of this our Kingdom and to encourage so  
commendable an undertaking, *of our especial grace certain knowledge*  
*and mere motion* have granted constituted declared and appointed, and  
by these presents for Us our heirs and successors do grant [&c.] that

*Sir John Lowther of Lowther, Thomas*

our trusty and wellbeloved subjects *Richard Owen, Constantine Vernatty,*  
*Addison, Talbot Clerke, Thomas Phillips, and William Ingram, Esquires,*  
*Francis Baker, Thomas Addison and George Clerke, Esquires, George*  
*Thomas Renda, Gabriel Wayne, senr., George Moore, Richard Adams, and*  
*Moore, Thomas Boone, John Moore, John Henley, Matthias Cupper,*  
*Henry Corbet, of London, merchants . . . . .*

*Richard Adams and John Franck, merchants, and such others as shall*  
*Company*

be admitted into the Society hereinafter mentioned, shall be and shall  
be called one body corporate and politic in deed and in name by the

*for making Iron*

name of **The Governor and Company for Smelting down Lead**  
*with Pit Coal . . . . .*

**with Pit Coal and Sea Coal :**

[By that name We fully incorporate them for ever, with perpetual  
succession and capacity in law to have purchase dispose of &c., lands  
&c. and goods &c. : power to plead and be impleaded, and to have a  
common seal] :

[Constitution :—one Governor, one Deputy Governor, and not more  
*fourteen*  
than twenty Assistants] :

*Sir John Lowther*

[Officers nominated : Governor, *Richard Owen* ; Deputy Governor,  
*Thomas Addison*

*George Moore* ; the other persons abovenamed to be Assistants : these  
*September 29th*

officers to hold office till December 25th next or further election] :

[Power to keep Courts in London or Westminster, to meet and



treat of the Company's affairs : the Governor Deputy Governor and  
*five*

Assistants or any seven of them, notice being given, shall make a committee, with power to choose a Treasurer Secretaries Book-keepers &c.]:

[Power to make reasonable laws &c., and impose and recover penalties &c. ; such laws] to be reasonable and not contrary or repugnant to the laws or statutes of this our Realm or to the prejudice of any other Company :

[Power to choose annually a Governor Deputy Governor and not  
*fourteen*

more than twenty-four Assistants for the following year, or before  
*September 29th*

December 26th next to increase the number of Assistants up to twenty-four] by the plurality of votes according to their respective shares in the Joint stock of the said Company as hereinafter mentioned ; [usual directions for voting by every member having five shares, and for casting vote,] and that every member of the said Company shall have one vote for every five shares he hath in the joint stock of the said Company, not exceeding the number of four votes for all the shares he hath in the joint stock and no more :

*Provided always* [and We strictly command] that no person shall have any interest in or be admitted into the said Company <sup>1</sup> or any office [etc. unless he first take the statutory oaths]:<sup>2</sup>

[Judges Justices Sheriffs &c. to be favouring aiding &c.]:

[Power to make &c. a joint stock of any value]:

*Provided always* that if at any time it shall appear to Us our heirs or successors that the said undertaking is not for the general and public good of this our Kingdom, or that the same shall not be effectually carried on, and shall be so declared in and by the Lords of the Privy Council of Us our heirs and successors or any six or more of them in writing under their hands, then, from and after notice given of such declaration to the said Governor and Company or their successors or to the Governor or Deputy Governor of the said Company for the time

*our Royal Charter*

being, this our said Royal Charter of Incorporation and all things therein contained shall cease and determine :

And lastly [validity and favourable construction clause]:

*xxxi*

In witness &c. witness our selves at Westminster the *ivth* day of  
*July*

October

*by writ of Privy Seal.*

<sup>1</sup> This provision was relaxed for shareholders by *Patent Rolls*, 32 Geo. III., pt. i.

<sup>2</sup> As *ante*, p. 215.

ROYAL LUTESTRING COMPANY <sup>1</sup>

(Patent Rolls, 4 W. &amp; M., pt. vii.)

WILLIAM AND MARY *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas* our wellbeloved subjects *Paul Clowdesley, Peter le Keux and Hilary Renew* on behalf of themselves and several others have by their humble Petition <sup>2</sup> represented unto Us that they have with great expense and industry attained to the new invention of making dressing and lustrating of silks called plain and allamodes <sup>3</sup> reinforces <sup>4</sup> and lutestrings, <sup>5</sup> and have already caused to be made great quantities of the said silks at least equalling the manufacture of France as well in lustre as otherwise, for the sole use exercise and benefit of which said invention the said *Paul Clowdesley* together with *William Sherard* and also *Peter Duclew*, who is since gone into parts beyond the seas, obtained of the late King JAMES THE SECOND Letters Patents bearing date the three and twentieth day of November in the fourth year of his reign <sup>6</sup> for the time of fourteen years from the day of the date of the said Letters Patents,

*And whereas* they have also informed Us that they are further resolved industriously to promote the said work to the honour and common good of this nation by employing many thousands of poor people as well in working of the said silks as by other dependencies upon the same, as also by saving the vast expense of money that used to be sent yearly into France for the said commodities, and have humbly besought Us to incorporate them and divers others hereafter mentioned to manage and carry on the same by a joint stock,

*Know ye therefore that We*, being desirous to promote all endeavours tending to the public good of this our Kingdom and to encourage so commendable an undertaking, of our especial grace certain knowledge and mere motion have given granted constituted declared and appointed, and by these presents for Us our heirs and successors do give grant [&c.], that our right trusty and right wellbeloved Cousin and Counsellor *Thomas Earl of Pembroke and Montgomery*, the said *Paul Clowdesley, William Sherard, Peter Le Keux*, and also our trusty and wellbeloved *John Blondell, Lewis Gervaze, Peter Lause, Stephen*

<sup>1</sup> See Introduction, *ante*, pp. cxi.-cxiii.

<sup>2</sup> *Petition Entry Books*, 235, pp. 292, 307 (*ante*, p. cxii. (2)).

<sup>3</sup> Alamode silk, 'a thin, light, glossy black silk' (*N.E.D.*).

<sup>4</sup> Renforcee (French (*éttoffe renforcée*),

'a strong make of silk' (*N.E.D.*).

<sup>5</sup> Lustring (French *lustrine*), 'a glossy silk fabric' (*N.E.D.*); 'lutestring' seems to be a popular corruption.

<sup>6</sup> *Patent Rolls*, 4 Jac. II., pt. xi. (*ante*, p. cxi.).



*Notting, Paul Rey, John Lekeux, Peter Floyer, Thomas Blythe, Joseph Paice, Robert Hackshaw, Edward Lloyd, William Grosvenor, Richard Cooper and Hilary Renew*, and such others as shall be admitted into the said Society, from henceforth be and shall be one body corporate and politic in deed and in name by the name of **The Royal Lutestring Company for Making and Dressing of Allamodes Ranforces and Lutestrings in England :**

[By that name to be fully corporate for ever, with perpetual succession, power to purchase and deal with lands &c., to plead and be impleaded, and to have a common seal] :

[Constitution :—one Governor, one Deputy Governor and twelve Assistants] :

[First officers nominated : Governor, *Thomas Earl of Pembroke and Montgomery*], to continue in the said office of Governor from the date of these presents until another of the said Company in due manner be chosen and sworn unto the said office according to the ordinances and provisions hereafter in these presents expressed and declared, if the said *Thomas Earl of Pembroke and Montgomery* shall so long live : [Deputy Governor, *Peter le Keux*, to continue in office until Jan. 25th next, and thenceforward until further election] if the said *Peter le Keux* shall so long live, And our further will and pleasure is, And We do hereby for Us our heirs and successors direct and appoint, that from and after the said [Jan. 25th next or further election] the said *Peter le Keux* shall be and continue the Assistant of the said Company until [Jan. 25th 1696 or further election] if he shall so long live : [Other Assistants, *John Blondell, Lewis Gervaise, Paul Clowdesley, William Sherard, Peter Lauze, Stephen Notting, Paul Rey, John le Keux, Peter Floyer, Joseph Paice, William Grosvenor and Robert Hackshaw* : the first seven of these to hold office till Jan. 25th 1696, the last five till Jan. 25th next ensuing the date hereof, or further election] :

Further We do hereby for Us our heirs and successors give and grant unto the said Company and their successors or the major part of them full power and authority upon the said [Jan. 25th] next ensuing, or within fourteen days after, to elect and choose five persons out of the before-named *Peter Floyer, John le Keux, Thomas Blyth, Joseph Paice, Robert Hackshaw, Edward Lloyd, William Grosvenor and Richard Cooper*, who shall be and continue Assistants of the said Company from the time of their election until [Jan. 25th 1693 or further election] :

[Provision for future annual election (on January 25th 1693 to 1696) of five Assistants who must be members and must have at least ten shares in the joint stock, and for similar election of a Governor a

Deputy Governor and (from 1696) twelve Assistants to serve for the ensuing year]:

And We do hereby for Us our heirs and successors direct and command that no person or persons whatsoever (except such as are before in these presents particularly named and constituted) shall at any time hereafter be admitted to the office of Governor Deputy Governor or Assistant of the said Company who hath not ten shares at least in the joint stock of the said Company :

[Any Assistants herein nominated who happen to die or leave this Realm or be permitted to surrender their office before Jan. 25th 1696, to be replaced]:

[Power to hold Courts in London and Westminster or elsewhere in England or Wales &c., and to form a Committee &c. ; power to appoint Treasurers, Secretaries, Bookkeepers &c., to make laws &c. and impose penalties by fine &c.] :

[Power to appoint sub-committees &c. ; to meet annually to elect officers &c. at ten days' notice ; minimum voting qualification of ten shares ; directions for voting, casting vote &c.,] and no person to have more than one vote for all the shares he hath in the said joint stock ; [directions as to taking oaths before office] :

[Power to remove subscribers who default in their subscriptions after ten days' warning] :

[Judges, Justices &c. in England and Wales to be favouring, aiding &c.] :

[Power to purchase and enjoy manors &c., not exceeding the clear yearly value of £1000, and also goods and chattels] :

[Power to raise a joint stock of any value] :

*Provided always* that these presents or anything herein contained shall not extend or be construed to extend to discharge any of the Covenants or Provisos<sup>1</sup> contained in the before-mentioned Letters Patents granted to the said [patentees] for the sole use and benefit of the said invention of making lustrating and dressing of Allamodes Ranforces and Lutestrings for the term of fourteen years, [but the same shall be of as full force as if these presents had never been made : nothing herein to be construed as extending the benefit of the invention for longer than the remainder of the said term of fourteen years] :

*Provided likewise* that nothing herein contained shall be prejudicial to the Corporation of Weavers London, and that all persons their apprentices and servants that shall at any time hereafter weave any of the said allamodes ranforces and lutestrings within the limits of the Charter of the said Company shall from time to time be bound

<sup>1</sup> See *ante*, pp. cxi.-cxii.



apprentices or members of the said Corporation according to the purport of their ordinances and subject to the government and regulation of the said Corporation of Weavers :<sup>1</sup>

[Validity and favourable construction clause, any defects or incertainties &c. notwithstanding] :

In witness &c. witness our selves at Westminster the xvth day of October

*by writ of Privy Seal.*

### SALTPETRE COMPANY.<sup>2</sup>

(Patent Rolls, 4 W. & M., pt. x.)

WILLIAM AND MARY *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas* saltpetre is of great use as well for the safety and defence of our Realms and Dominions<sup>3</sup> as for many other purposes, and the making of it within our Dominions will conduce much to the security of Us and our subjects and prevent the remitting great sums of money into foreign parts from whence that commodity hath hitherto been usually imported in great quantities,

*And whereas* our trusty and wellbeloved subjects *William Tindall* and *Thomas Cox*, Esquires, on behalf of themselves and divers others have lately represented unto Us that they have found out several new ways and methods of making and refining saltpetre within our Kingdom and Dominions in great quantities, and have humbly besought Us to incorporate them and their partners in order to the better managing and carrying on their said inventions by a joint stock, And, as testimony of their good inclinations to promote the public interest of our Realms as well as their own private advantage, have proposed to furnish Us our heirs and successors yearly with such quantities of saltpetre and at such rates and in such manner as are hereinafter mentioned, and to pay the sum of one thousand pounds yearly towards the support and maintenance of the maimed aged and decayed seamen their widows and children in such manner as hereinafter is expressed,<sup>4</sup>

*Now know ye that We*, being desirous to promote and encourage

<sup>1</sup> See *ante*, p. cxii.

<sup>2</sup> See Introduction, *ante*, pp. lxxix.-lxxxi.

<sup>3</sup> Cf. *ante*, p. lxx.

<sup>4</sup> For this and the rival petition, see

*ante*, p. lxxx. Greenwich Hospital was soon afterwards set in hand; see *Patent Rolls*, 6 W. & M., pt. ix., and 7 W. III., pts. i. and iii.; see also *ante*, p. cxiii. (3).

all undertakings tending to the general good and safety of our Kingdom, of our especial grace certain knowledge and mere motion have granted ordained constituted declared and appointed, and by these presents for Us our heirs and successors do grant ordain [&c.], our trusty and wellbeloved subjects *Richard Earl of Bellemont* in our Kingdom of Ireland, *Peregrine Bertie, Philip Bertie*, Esquires, sons of our right trusty and right wellbeloved Cousin and Counsellor *Robert Earl of Lindsey, Sir John Huband*, Baronet, *Sir Nicholas Pelham, Sir John Bucknall*, Knights, *William Gulston, William Tindall, Thomas Cox, Rupert Browne, Richard Dayrell, William Barnseley, John Hoskyns*, Esquires, *John Seger Widenfelt, Charles Cox, Thomas Malyn, John Sherman, Patrick Gordon, Samuel Antrim, Jonathan Smith*, Gentlemen, *Thomas Dawson and James West*, merchants, and all and such others as shall hereafter be admitted and made free of the said Company hereinafter mentioned, shall for ever hereafter be and be called one body corporate and politic in deed and in name by the name of **The Governor and Company for Making and Refining of Saltpetre within the Kingdoms of England and Ireland and the Dominions thereunto belonging :**

[By that name to be corporate for ever, with perpetual succession, and capacity in law to have enjoy and dispose of manors messuages &c. (not exceeding the clear yearly value of £600), and goods and chattels ; power to plead and be impleaded] in the same and as ample manner and form as any other of our loving subjects of our Realms of England and Ireland and of our Dominions and Plantations thereunto belonging or any of them, being persons able and capable in law, or any other body politic and corporate within our said Realms Dominions and Plantations [can &c. ; power to have common seal] :

[Constitution :—one Governor, one Deputy Governor and from eleven to nineteen Assistants] :

[Officers nominated : Governor, *Richard Earl of Bellemont* ; Deputy Governor, *Thomas Cox* ; Assistants, *Peregrine and Philip Bertie, Sir John Huband, Sir Nicholas Pelham, Sir John Bucknall, William Gulston, William Tindall, Richard Dayrell, John Seger Widenfeldt, John Sherman and Charles Cox* : all these to continue till November 1st next or further election] :

[Power to hold General Court in London or Westminster, and thereat admit members &c., make reasonable laws &c., and provide punishments &c.] :

[Power to hold a Court of Assistants (quorum of six), to appoint sub-committees and choose under-officers &c. ; to hold an Annual General Court for election of officers on November 1st or fourteen



days after : power to remove and replace officers ; provision for casting vote &c., and for oaths before office &c.] :

[Power to make raise &c. a joint stock] :

*Provided always*, and these our Letters Patents are and shall be upon this condition, that if the said [Company] shall neglect or refuse to sell and deliver into the Office of the Ordnance of Us our heirs and successors to our and their own use two hundred tons of the best white saltpetre duly refined within one year next ensuing the date of these presents, and in every year afterwards for ever such quantities of the like saltpetre so refined as aforesaid (not exceeding one thousand tons in any one year) as shall be required by the Master Lieutenant or other Chief Officer or Officers of or belonging to the Ordnance of Us our heirs and successors, We our heirs and successors paying to the said [Company] for every ton of such saltpetre the sum of seventy pounds of lawful English money in case the said commodity then shall at the common market rate bear the said price of seventy pounds per ton or exceed the same, Or if the market or common price be then under seventy pounds a ton and the said [Company] shall neglect or refuse to sell and deliver as aforesaid the said quantities of the best white saltpetre so refined as aforesaid at as low a rate and price as the same shall then be ordinarily sold for, We our heirs and successors paying to the [Company] for every ton of such saltpetre the then common or market price, Then and in either of those cases these our Letters Patents and every clause article and thing therein contained shall cease determine and be utterly void and null to all intents and purposes, anything herein contained to the contrary notwithstanding :

*Provided also* that if immediately after the date hereof the said Governor and Company do not set about the said work of making and refining saltpetre and effectually perform and carry on the same according to the intent and meaning of this our Charter,<sup>1</sup> or in case these presents and the Corporation hereby erected shall at any time hereafter be adjudged or declared in the Privy Council of Us our heirs or successors to be inconvenient to the public or not fit to be continued, Then upon signification or declaration thereof to be made by Us our heirs or successors under our or their Signet or Privy Seal, or by the Lords and others of our or their Privy Council, or any six or more of them under their hands, these our Letters Patents shall forthwith cease determine and be utterly void to all intents and purposes, anything herein contained to the contrary in any wise notwithstanding :

*And whereas* we are desirous of nothing more than to increase the naval strength of these our Kingdoms and to encourage our seamen, and having taken a pious and princely purpose and resolution to erect

<sup>1</sup> Cf. *ante*, p. lix. (1).

the Hospital for maimed aged and decayed seamen and their widows and children as soon as the public affairs of our Kingdom will allow, and in the meantime are willing to take all fitting occasions to promote the said design,<sup>1</sup>

It is hereby provided, and the said Governor and Company and their successors do hereby for themselves and their successors covenant promise and agree to and with Us our heirs and successors, that they and their successors shall and will yearly and every year during the continuance of this our grant well and truly pay or cause to be paid unto the Treasurer of the Navy for the time being of Us our heirs and successors or such other person or persons as We our heirs or successors shall by writing under our or their Signet or Privy Seal nominate and appoint in that behalf, the sum of one thousand pounds of lawful English money at the Feasts of the Nativity of St. John the Baptist and the Birth of Our Lord Christ by even and equal portions (the first payment thereof to begin and be made at the Feast of the Nativity of St. John the Baptist next ensuing the date of these presents) to be paid and distributed towards the relief and maintenance of such seamen their widows and children and in such manner as the moneys in the Chest of Chatham are from time to time paid and distributed<sup>2</sup> or otherwise as We our heirs or successors shall direct and appoint in that behalf so long and until the said Hospital shall be founded according to our said royal intentions and from and after the building and founding of the same and settling thereof according to our royal intentions in that behalf, shall and will pay or cause to be paid the said sum of one thousand pounds *per annum* at the Feasts aforesaid by equal portions towards a revenue for the support and maintenance of the said Hospital to such persons for such uses and in such manner as We our heirs and successors shall in that behalf direct and appoint :

And our express will and pleasure is, and We do hereby declare, that in case failure be made of or in payment of the said one thousand pounds *per annum* or any part thereof contrary to the beforementioned provision and covenant for payment thereof, then these our Letters Patents and every clause article and thing therein contained shall forthwith cease determine and be utterly void [&c.] :

*Provided further*, and our intent and meaning is, that these Patents or anything herein contained shall not extend to give liberty power privilege and authority to the said Governor and Company or their successors servants officers workmen agents or assigns to enter into or dig or break up any messuages houses outhouses pigeonhouses oxhouses

<sup>1</sup> See *ante*, p. 234 (4).

<sup>2</sup> See Record Office, *Admiralty, Chatham*,

*Chest*, 130, for details and history from 1590 onwards.



stables stalls or the lands or grounds of any of our subjects whatsoever or wheresoever either in our Kingdoms of England or Ireland or any other our Dominions without the consent of the owners or possessors thereof first freely had and obtained : <sup>1</sup>

And lastly [validity and favourable construction clause] :

In witness &c. witness our selves at Westminster the xxixth day of October

*by writ of Privy Seal.*

## COMPANY FOR DIGGING AND WORKING OF MINES.<sup>2</sup>

(Patent Rolls, 5 W. & M., pt. viii.)

WILLIAM AND MARY *by the grace of God &c.*, To all to whom these presents shall come, Greeting :

*Whereas* We have been informed by the humble Petition of *William Campion, Thomas Crud, Anthony Rowe, Thomas Mall, George Boone, Thomas Neale, John Dewy, Arthur Moore and John Tyzacke*, That our Kingdom of England and Dominion of Wales do much abound in mines especially of lead, great part whereof remain unwrought to the manifest loss of the public, And that the reason why so great a part of the wealth of our Dominions remains useless is partly because there is not sufficient diligence and application used in discovering of mines, and partly because, the working of mines being very chargeable and the profit subject to great hazard, many owners of land where mines are cannot or dare not themselves undertake the same,<sup>3</sup>

*And whereas* they have most humbly besought Us to enable them and divers others hereafter mentioned in a corporate capacity to dig and work such mines as they shall be legally entitled to, and to buy and refine ore by a joint stock,

*Now know ye that We*, being desirous to promote all endeavours tending to the public good of this our Kingdom, and to encourage so commendable an undertaking, *of our especial grace certain knowledge and mere motion* have given granted constituted declared and appointed and by these presents for Us our heirs and successors do give grant constitute declare and appoint, that our right trusty and wellbeloved *James Lord Chandois*, our trusty and wellbeloved *Thomas Neale Esquire*,

<sup>1</sup> For this interference with private property by saltpetre-makers, see *ante*, pp. lix. (6), lxxx.

<sup>2</sup> See Introduction, *ante*, pp. cii.-ciii.

<sup>3</sup> See *ante*, *ibid*.

*Thomas Wharton Esquire, Edward Russell Esquire, Sir Henry Belasyse, Sir Thomas Travell, Sir Thomas Escourt, Sir William Gore, Sir William Scawen, Thomas Felton, James Chadwicke, William Campion, William Munson, Thomas Maule, Anthony Rowe, Thomas Crud, Ralph Bucknall, George Boune, Arthur Champneys, William Sedgwick, Henry Cornish, Francis Tyson, Edward Harris, John Stanian, John Foche, John Bowles, Sir Joseph Herne, John Carter, John Holland, Thomas Powell, Arthur Moore, Deane Mountage, John Burrough, Thomas Doughty, Tobias Wynne, John Blunt, Michael Cope, Sir Stephen Evans, Richard Spencer and Thomas Porter*, and such others as shall be admitted into the said Society, henceforth be and shall be one body corporate and politic in deed and in name by the name of **The Governor and Company for Digging and Working of Mines and for Buying and Refining Ore by a Joint Stock in England :**

[To be fully corporate for ever, with perpetual succession, and power to purchase and enjoy] lands mills houses rents privileges liberties franchises and hereditaments of what kind nature or quality soever, [and to dispose of the same and do all things appertaining] :

[Power to plead and be impleaded &c., and have a common seal] :

[Constitution : one Governor, one Deputy Governor, and twenty or more Assistants] :

[Officers nominated :—Governor, *James Lord Chandois* ; Deputy Governor, *Thomas Neale* ; Assistants, the thirty-eight other grantees abovenamed : to continue in office till May 1st 1694 or further election] :

[Power to hold and keep a Court in London, Westminster, or any part of England or Wales or in Berwick-upon-Tweed, and there meet and consult] :

[Any seven may, upon notice being given, form a Committee, the Governor or Deputy to be one ; power to the Committee to appoint Treasurers, Secretaries Bookkeepers, Clerks, Beadles or other officers necessary] :

[Power to make laws &c., and inflict punishments &c.] :

[Power to appoint sub-committees &c., and annually on May 1st, or fourteen days after, to meet and elect officers for the next year ; usual provisions for voting, one vote for each share in the joint stock ; oaths to be taken before office ; power to remove and replace officers, and to remove defaulting subscribers] :

[*James Lord Chandois* to take his corporal oath before the Lord Chief Justice of the King's Bench or before the Lord Mayor of London, other nominated officers before the Governor, &c.] :

[Judges Justices Mayors Sheriffs Bailiffs &c. to be favouring aiding &c.] :



[Power to take have and dispose of manors lordships messuages lands &c. (not to exceed the yearly value of £600) &c.] :

[Power to make and raise a joint stock] :

*Provided always* that these our Letters Patents or any thing herein contained shall not extend, or be construed to extend, to give licence or privilege to the said Governor and Company or their successors or any of them to dig and work copper mines or refine or smelt copper or to interfere with whatsoever is comprehended in any Charter already granted by Us or any of our Predecessors, It being our will and pleasure that the said Governor and Company and their successors shall be excluded from digging and working copper mines and refining or smelting of copper ore and likewise interfering with whatsoever is comprehended in any Charters whatsoever heretofore granted :

*Provided also* that they the said Governor and Company and their successors or any of them do not nor shall not at any time hereafter under colour or pretence of this grant presume to work any mines but their own or such as they shall purchase or take leases of from the owners of the soil, nor in any sort obstruct any persons in working their own mines or the mines of any others which they shall agree for :

And our further will and pleasure is, and these our Letters Patents are and shall be upon this condition, that in case the said [Company] shall at any time happen to enter upon the working of any mines which shall happen to contain such quantities of silver as to be accounted Mines Royal, they the said Governor and Company and their successors shall and are hereby required to make agreements with the Society of the City of London of Mines Royal <sup>1</sup> or the Company of the Mineral and Battery Works <sup>2</sup> (which are Corporations erected for that purpose by our Royal Predecessors Queen ELIZABETH and King JAMES THE FIRST) according to their respective Charters or after such manner as We our heirs or successors shall direct :

*Provided likewise*, and these presents are also upon this further condition, that in case the said undertaking be not put in practice within the space of two years next ensuing the date of these our Letters Patents, and effectually carried on by the said Company, or that the same shall be found inconvenient in the practice thereof, or if the powers herein and hereby granted shall be in any wise abused, Then upon signification and declaration of such inconveniences or abuses to be made by Us our heirs or successors under our or their Signet or Privy Seal or by the Lords or others of our or their Privy Council or any six or more of them under their hands, these our Letters

<sup>1</sup> See *ante*, pp. xciii.-xcvii.

<sup>2</sup> See *ante*, pp. xcvi.-c.

Patents shall forthwith cease determine and be utterly void to all intents and purposes, any thing hereinbefore contained to the contrary notwithstanding :

[Validity and favourable construction clause, any defect or uncertainty notwithstanding] :

In witness &c. witness our selves at Westminster the viith day of September

*by writ of Privy Seal.*

## COPPER MINERS OF WALES.<sup>1</sup>

(Patent Rolls, 6 W. & M., pt. ii.)

WILLIAM AND MARY *by the grace of God &c.* To all to whom these presents shall come, Greeting :

*Whereas Samuel Pargiter, Peter Hudson, Edward West, Samuell Cudworth and Leonard Fitchew, of London, merchants, on behalf of themselves and others jointly concerned with them, have by their Petition humbly represented unto Us that they have in demise by lease from the Right Reverend Father in God William late Lord Bishop of Saint Asaph and now of Lichfield and Coventry certain mines of lead ore opened and unopened in a close called Tallergoth in Meliven in the County of Flint and all and every the mines of copper ore boose<sup>2</sup> and smithome<sup>3</sup> and materials for making of copper opened and to be opened in the said close called Tallergoth, And that they are also interested in several other lead and copper mines in the said County of Flint and other Counties in Wales, the well ordering and good management whereof will tend much to the advance and improvement both of the lead and copper manufactures of our Realms,*

*And have humbly prayed Us, for their encouragement to proceed upon an undertaking likely to be so advantageous to the public and for the supporting and maintaining the great charge and expense they must necessarily be at to manage and carry on the same, to incorporate them and such other persons as now are or hereafter shall be concerned with them therein to manage improve and carry on with a joint stock*

<sup>1</sup> See Introduction, *ante*, p. cii. For the grant of copper-mining in England and Ireland, see above, pp. 216-220.

<sup>2</sup> 'Lead ore in its rough state.' *N.E.D.* (*s.v.* 'bouse,' sb. 2). And see Wright, *Dial.*

*Dict.* (*s.v.* 'booze' sb. 2), 'bouse-smithem, small ore as it is washed by the sieve.'

<sup>3</sup> See Wright, *Dial. Dict.*, *s.v.* 'smithum,' 'fine lead-dust, powdered ore': see 'smiddum,' *ibid.*, and compare 'smeddum.'



such copper and lead works wherein they are or shall be interested within the Principality of Wales,

*Know ye therefore that We*, being desirous to promote all endeavours tending to the public good of this our Kingdom and to encourage so commendable an undertaking, *of our especial grace certain knowledge and mere motion* have granted constituted declared and appointed, and by these presents for Us our heirs and successors do grant constitute declare and appoint, that our trusty and wellbeloved subjects *John Pery Esquire, Samuel Pargiter Esquire, Peter Hudson, Edward West, Samuell Cudworth, Leonard Fitchew, Nicholas Hayward, Samuell Kingston, Thomas Fryer, Jacob Coven, William Monson Esquire, Joseph Cope, Urban Hall, Robert Oxwick, Alexander Jennings, John Applebee, John Milburne, Edward Richier, John Cooper and Leonard Edgcumbe*, and such others as shall be hereafter admitted into the Company hereafter mentioned, shall be and shall be called one body corporate and politic in deed and in name by the name of **The Governor and Company of Copper Miners in the Principality of Wales:**

[By that name to be fully corporate for ever, with perpetual succession, power to purchase lands &c., to plead and be impleaded, and to have a common seal]:

[Constitution:—one Governor, one Deputy Governor, and not more than five Assistants]:

[Officers nominated:—Governor, *John Pery*; Deputy Governor, *Samuell Cudworth*; Assistants, *Cope, Cooper, Fryer, Fitchew, and Hayward*: to hold office till September 19th next or further election: provision for taking oaths]:

[Power to keep Courts in London or Westminster and there assemble &c.; the Governor or his Deputy with any three Assistants to form a Committee; power to them to appoint Treasurer, Secretaries, under-officers &c., make reasonable laws &c., inflict and recover fines &c., appoint sub-committees and summon officers and members to consult; provision for annual meeting on September 19th, or ten days after, to elect officers for ensuing year; ten days notice of meeting; minimum voting qualification, three shares in the joint stock; votes in writing, perusal in open Court &c., casting vote &c.; no one to have any interest in the Company or be admitted unless he take the oaths as aforesaid, &c.]:

[Power to remove and replace officers; oaths to be taken and administered]:

[Power to raise and manage a joint stock]:

[Judges Justices Mayors Sheriffs &c. to be favouring and assisting &c.]:

*Provided always* and our Royal will and pleasure is, and We do hereby for Us our heirs and successors declare, that these our Letters Patents shall extend to give power or privilege to the said Governor and Company and their successors only to work make or gain copper and lead within our Principality of Wales, and shall not in any wise exclude prejudice or hinder any other person or persons bodies corporate or politic whatsoever from in or concerning the gaining or working of any copper or lead mines or from in or concerning the making of copper or lead or either of them within this our Kingdom of England and Dominion of Wales or within any other our Dominions, but that they and every of them may make and gain copper or lead and do all other things relating thereto as fully and amply as they might do in case these our Letters Patents had not been made :

And lastly [validity and favourable construction clause] :

In witness &c., witness the King and Queen at Westminster the tenth day of April

*by writ of Privy Seal.*

## MINE ADVENTURERS OF ENGLAND.<sup>1</sup>

(Patent Rolls, 3 Anne, pt. iii.)

ANNE *by the Grace of God &c.*, To all to whom these presents shall come, Greeting :

*Know ye that*, at the humble instance and request of our right trusty and right entirely beloved Cousin and Counsellor *Thomas Duke of Leeds*, our right trusty and right wellbeloved Cousin *Pawlett Earl of Bolinbrooke*, our trusty and wellbeloved *Francis Lord Guildford*, and our trusty and wellbeloved *Sir Thomas Mackworth* Baronet and *Sir Humphrey Mackworth* Knight, in behalf of themselves and others our loving subjects joint partners and adventurers with them in an undertaking for the working and managing of mines and minerals and for the smelting refining and manufacturing the same,<sup>2</sup>

We of our especial grace certain knowledge and mere motion have willed granted constituted declared and appointed, and hereby for Us our heirs and successors do will grant [&c.], that the said *Thomas Duke of Leeds*, *Pawlett Earl of Bolinbrooke*, *Francis Lord Guildford*, *Sir Thomas Mackworth*, *Sir Humphrey Mackworth*, and our trusty and wellbeloved

<sup>1</sup> See Introduction, *ante*, pp. ciii-civ.

<sup>2</sup> For the petition and previous constitu-

tion under deed enrolled in Chancery, see *ante*, p. ciii.



*Robert Cecill Esquire, Robert Bertie Esquire, Sir John Blencowe Knight, one of our Justices of the Court of Common Pleas, Sir John Morden Baronet, Sir John Webb Baronet, Sir William Ashurst Knight, Sir Thomas Hussey Baronet, Sir Edmund Warrup Knight, Sir Richard Hoare Knight, Sir Godfrey Kneller Knight, Samuel Trotman Esquire, Bulkley Mackworth Esquire, Herbert Mackworth Esquire, Thomas Pit Esquire, William Young Esquire, Thomas Mulsoe Esquire, William Freeman Esquire, Thomas Breton Esquire, Robert Nelson Esquire, Edward Jeffereys Esquire, George Paske Esquire, John Wallis Esquire, Toby Chauncey Esquire, Thomas Paske Esquire, Samuel Atkins Esquire, Thomas Frederick Esquire, Frederick Herne Esquire, George London Esquire, James Hallet, Kingsmill Mackworth, Abraham Tillard, Hopefor Bendall, Robert Wakeman, Richard Curtis, Richard Chauncy, William Waller and Edward Harrison, Gentlemen, and all others joint partners and adventurers in the said undertaking for the working and managing mines [&c. as aforesaid]* so qualified as hereafter directed, shall for ever hereafter be and by virtue of these presents shall be one body corporate and politic in deed and in name by the name of **The Governor and Company of the Mine Adventurers of England :**

[By that name to be fully corporate for ever, with perpetual succession and a common seal ; power to sue and be sued &c.] :

[And We grant &c. that] there shall be a Governor, Deputy Governor and twelve Directors of the said Company [to be chosen as hereafter expressed] :

[*Thomas Duke of Leeds* nominated first Governor for his life,] And upon the decease of the said *Thomas Duke of Leeds* We do for Us our heirs and successors nominate constitute declare ordain and appoint that the said *Sir Humphrey Mackworth*, if he shall be then living, do immediately succeed and be admitted the next Governor of the said Corporation, to remain and continue in the said office or place during his life :

And We do further for Us our heirs and successors grant ordain [&c.] that upon the decease of the said *Thomas Duke of Leeds* and *Sir Humphrey Mackworth* that *Herbert Mackworth*, son and heir apparent of the said *Sir Humphrey Mackworth*, do succeed and be admitted Governor [&c. as aforesaid] :

And from and after the decease of the said *Thomas Duke of Leeds*, *Sir Humphrey Mackworth* and *Herbert Mackworth*, our will and pleasure is, And We do hereby for Us our heirs and successors grant and ordain, that *Kingsmill Mackworth*, second son of the said *Sir Humphrey Mackworth*, do succeed and be admitted Governor [&c.] :

And from and after the death of the said *Thomas Duke of Leeds, Sir Humphrey Mackworth, Herbert Mackworth and Kingsmill Mackworth*, our will and pleasure is, and We do hereby for Us our heirs and successors grant and ordain, that *William Mackworth*, third son of the said *Sir Humphrey Mackworth* do succeed and be admitted Governor [&c.] :

*Provided* that each of the said sons of the said *Sir Humphrey Mackworth* have, within three months after the time of his becoming Governor of the said Corporation and during his continuance therein, one hundred shares of the six thousand and twelve hereinafter mentioned in his own right and not in trust for any other person :

And twenty days next after the death or resignation of the said [*Duke of Leeds and four Mackworths*] and of the survivor of them, or as soon after as shall be convenient, [the Deputy Governor to summon a General Court to elect a Governor (who shall have 100 shares in his own right), to be sworn and to continue in office for one year and then till the second Thursday in November next ensuing, on which date subsequently a new Governor to be annually elected] :

[*Sir Humphrey Mackworth* to be first Deputy Governor] to continue in the said office during his life or until he shall succeed and become Governor : [thereafter a new Deputy Governor to be chosen annually from the Directors, and sworn &c.] :

[*Sir Thomas Mackworth* Baronet, *Robert Nelson* Esquire, *Thomas Breton* Esquire, *George Paske* Esquire, *Edward Jeffereys* Esquire, *James Hallett*, *Abraham Tillard*, *Hopefor Bendall*, *Robert Wakeman*, *Richard Curtis*, *Richard Chauncey* and *Edward Harrison*, gentlemen, to be first Directors till the second Thursday in November next ensuing or till further election, unless they die or be removed] :

[And We further grant] that from time to time and at all times hereafter every person and persons to whom any member or members of the said Corporation by the entry in a transfer book to be kept for that purpose or by his or her last will and testament shall transfer or assign all or any the parts or shares to him her or them allotted or belonging of the said six thousand and twelve shares of and in the said Company, And also every person and persons who shall be executor or administrator to any person having at the time of his or her death any such parts or shares in the said Company not transferred by such entry as aforesaid nor given nor bequeathed by such last will and testament as aforesaid and who in such case shall notify his her or their claim and acceptance of such shares as assignee devisee executor or administrator by causing an entry thereof to be written in the said transfer book and by subscribing the same with his or their own hand,



shall be deemed and taken to be a member of the said Company and so to continue until he she or they shall die or be amoved or transfer over his her or their shares and interest in the said Corporation to some other person or persons :

[No member to vote in a General Court if he has less than three shares in his own right] :

[And We further grant that the Company may meet in the City of London or the liberties thereof on the second Thursday in November next or within twenty days after] and shall then divide the said undertaking and produce and profits thereof and of the said mines minerals lands tenements hereditaments stock goods chattels and possessions of what nature or kind soever they be whereof the [Corporation] shall be then seized or possessed or wherein or whereunto they shall be then in any wise interested or intituled, into six thousand and twelve equal parts or shares and shall distribute and allot to each member of the said Company so many of the said six thousand and twelve parts or shares as shall be equal or proportionable to the number of shares which such member shall then have or be intituled to in his natural capacity in the said mines or minerals whereof he shall be joint partner or adventurer as aforesaid at the time of such division made :

[Provision for annual General Court (quorum of seven) ; voting qualification of three shares ; voting by members in person or by duly authorised deputy ; persons qualified as assignee devisee executor or administrator, holding three or more shares who] shall make oath, if required by any two or more members of the said Corporation, before the Governor or Deputy Governor of the said Company for the time being, [(authority to administer the oath) may have power] by writing under his or her hand and seal to authorise and appoint any other person to be his deputy or proxy to represent and to vote and act for him at any such General Court :

[Power to elect annually] out of the members of the said Company twelve able and discreet persons, [each of whom has at least twenty shares in his own right], to be Directors for the year following : [every such person to take a corporal oath before the Governor or his Deputy] for the due and faithful discharge of his office and duty in the words or to the effect following, that is to say, '*I, A. B., will truly and faithfully execute the office and duty of one of the Directors of the Corporation known by the name of the Governor and Company of Mine Adventurers of England in every respect according to the best of my skill and understanding and as I shall judge most for the advantage of the said Corporation, so help me God*' ; [and being so sworn shall hold office for the year till fresh

election unless he die or be amoved ; if he refuse to be sworn, or cease to hold twenty shares as above, or commit any misdemeanour, power at a General Court to remove him and within ten days elect some other person properly qualified] :

*Provided always*, and our will and pleasure is, and We do hereby for Us our heirs and successors declare that such General Court or Assembly shall not do any act matter or thing whatsoever relating to the business and affairs of the said Company other than to adjourn till some further time unless such of the members of the said Company as shall be then present shall have fifteen hundred shares of the said six thousand and twelve shares in their own rights and not as trustees for any other person or persons :

[General provisions for swearing officers &c., appointing and removing Secretaries Treasurers Managers &c., inferior officers &c., and allowing salaries &c.] :

[Power to make by-laws &c.] :

[Power to Governor Deputy Governor and Directors (or any five of them) to meet once a week to transact business] in such manner as they or the major part of them then present shall adjudge and deem most beneficial and advantageous for the common and general good and welfare of the said Corporation pursuant unto and not in any wise contrary to such methods rules orders by-laws statutes and constitutions as shall from time to time be made settled and established at any General Court or Assembly by the said Governor and Company [&c.], And shall and may by such order or orders in writing as shall from time to time be made by them or the major part of them then present and signed and subscribed by the persons agreeing thereto and not otherwise make and empower any person or persons to make such bargains and contracts or agreements as they or the major part of them then present shall judge best for the sale and disposal of any the ore bullion metal produce or profits interests or revenues arising or coming from any the mines or minerals lands tenements hereditaments or possessions whatsoever of the [Corporation], which bargains contracts and agreements or other orders so to be made, not being contrary to any of the methods rules orders [&c.], shall be firm and valid and shall from time to time be confirmed by the [Corporation] under their common seal as occasion shall require, So as no one bargain contract or agreement exceed at any time the value of ten thousand pounds, and so as every such bargain contract and agreement which is not to take effect and be completely executed within the compass of one whole year next after the making thereof or which shall exceed in value the sum of five thousand pounds shall be approved of and subscribed by the said



Governor Deputy Governor and twelve Directors or seven of them at the least : <sup>1</sup>

[And that the said body, or seven at the least] at such meeting or assembly shall and may from time to time and at all times hereafter require take and accept such security and securities from any person or persons as they or the major part of them then present shall approve, for the faithful discharge of his or their trust and trusts in such employment or employments as he or they shall be admitted into, [and administer oaths in default of such security &c.] :

[Power to purchase and enjoy] messuages lands tenements hereditaments woods underwoods [&c., not exceeding the clear yearly value of £1000, any goods and chattels, and also any mines or minerals in Wales ; power to our subjects to dispose of the same to the Corporation] :

[Judges Justices &c. to be favouring aiding and assisting &c.] :

[Authority to make and raise a joint stock of any value] :

*Provided always*, and our royal will and pleasure is, and We do hereby for Us our heirs and successors declare, that these our Letters Patents or anything therein contained shall not in any wise exclude prejudice or hinder any other person or persons bodies politic or corporate whatsoever, subjects of this our Realm, from in or concerning the gaining or working of any silver or other mines or from in or concerning the making of any copper lead tin or other metal whatsoever within this our Kingdom of England and Dominion of Wales or within any other our Dominions, But that they and every of them may make work and gain silver copper lead tin or any other minerals and do all other things relating thereunto as fully and amply as they might do in case these our Letters Patents had not been made :

And lastly [validity and favourable construction clause] :

In witness &c., witness our self at Westminster the six and twentieth day of April

*by writ of Privy Seal.*

## AMICABLE SOCIETY.<sup>2</sup>

(Patent Rolls, 5 Anne, pt. iv.)

ANNE *by the Grace of God* &c., To all to whom these presents shall come, Greeting :

*Whereas Humberston Baron, John Hartley, William Spencely,*

<sup>1</sup> This paragraph is based upon the provision protecting the shareholders in Mackworth's Settlement (*ante*, p. civ.),

under which the business had been carried on before incorporation.

<sup>2</sup> See Introduction, *ante*, p. cxxi.

*Richard Musgrave* and others have by their humble Petition represented unto Us that they have agreed and entered into a voluntary Society for the mutual benefit and interest of every person that shall at any time be a member thereof in order to provide for the wives children and other relations after a more easy certain and advantageous method than any that hath been hitherto thought of, by an amicable contribution according to certain articles or agreements entered into by the said Petitioners for the purposes aforesaid,

And it has been humbly certified to Us that their design will be of singular use and relief to many families by providing for great numbers of widows and orphans who might probably be otherwise left wholly destitute of a maintenance by the sudden death of those on whom they depend,

And the said Petitioners have therefore humbly prayed Us to incorporate them and all others that are or shall be concerned in the Society of Perpetual Assurance Office that they may be enabled to purchase lands to be settled as a security for payment of the claims and other uses mentioned in the aforesaid articles,

Now know ye that *We*, being graciously pleased to gratify the said Petitioners in their said request and to encourage the said undertaking, of our especial grace certain knowledge and mere motion have granted constituted declared and appointed [and hereby for Us our heirs &c. do grant &c.] that our trusty and wellbeloved *William Lord Bishop of Oxon, Sir Thomas Alleyn Baronet, Sir John Sparrow, Sir William Holford Baronet, Sir William Read Knight, Dame Mary Everard Ursula Bouchier, Dame Anne Platt, Dame Dorothy Bedingfield, Dame Anna Maria Price, Dame Katherine Venables, Colonel Horace Walpole, Colonel Thomas Garth, John Ward, William Branthwayt<sup>1</sup>, Charles Higgs, Charles Cox, Samuel Collins, John Price, Abraham Tilghman, John Twelves, Richard Musgrave, Richard Coxeter, Walter Hungerford, Peter Le Neve, Joseph Shaw, Richard Bromhall, Mathias Fletcher, John Grubb, Lewis Monoux, Henry Neale, Charles Yallop, George Nodes, Samuel Thornbury, Joseph Ayloff, Henry Bateman, Stephen Bateman, Charles May, William Livesay, Christopher Bedingfield, Gabriel Armiger, John Dennis, Valentine Daws, Robert Perryman, Ralph Cary, John Ellis, John Mercer, Robert Browne, William Walsham, Esquires, White Kennett, Nicholas Brady, William Lloyd, John Stillingfleet, Emanuel Langford, John Hicks, John Esdras Edzard, Doctors in Divinity, Thomas Ayloff, William Clements, Thomas Lane, Richard Pagett, Doctors of Laws, John Branthwayt, William Daws, John Kerr, Robert Conny, Ralph Hicks, Richard Morton, James Drake, Lancelot Harrison, John Doby, Doctors of Physic, Robert Peirson, Edward Cooke, Edward Shaw, Frederick Alp,*

<sup>1</sup> Elsewhere spelt *Branthway*.



*John Heylyn, William Spencely, Robert Sanderson, Edward Hartley, Charles Hall, John Gowand, Robert Kent, George Isaacson Junior, Anthony Isacson, Robert Lord, Theophilus Bedingfield, Anthony Wilkes, Charles Hornby, Benedict Ithell, Nicholas Tooke, John Savage, Captain Thomas Savery, William Terrett, Hayford Wainwright, Henry Willis, Joseph Watts, Charles Bridges, Samuel Newton, William Rutland, William Tolson, William Dockwray, John Oldmixon, Richard Owen, Frederick Milford, John Shewell, Ralph Leicester, gentlemen, John Harris, John Broughton, Edward Lany, William Wotton, Richard Johnson, Thomas Cook, Thomas Wagstaff, John Jacques, Richard Coleire, Vincent Barry, Samuel Haws, Zachary Wells, Humberston Baron, Richard Tisdale, Samuel Clark, James Mashorn, Julius Cesar, Masters of Arts, John Ward of St. Clement's Lane, Nathaniel Carpenter, William Blakeway, James Thornhall, Nathaniel Bland, Edward Westcomb, William Levingston, Joseph Moor, Benjamin Carter, Samuel Barwick, Robert Stiles, Merchants, Richard Mount, John Hals, John Rudyard, Robert Yardley, Captain Francis Parr, Samuel Watkinson, Robert Bovill, John Matthews, Robert Hartley, Jaspar Harmat, John Taylor, John Hartley, William Spurling, Luke Meriton, Thomas Hodgson, John Nutt, Thomas Higgs, Elinor Spelman, Margaret Massingberd, Elizabeth Willis, Elizabeth Clifford, Elizabeth Austin, Elizabeth Wilshaw, Theodosia Bedingfield, Penelope Price, Elinor Hoare, Martha Flint, Isabella English, Mary Kutty, and Penelope Webster, And all and every other person and persons who shall be admitted to be a subscriber and subscribers to the said Perpetual Assurance Office according to the directions hereinafter contained not exceeding two thousand persons in the whole, shall be, and be called one body corporate and politic in deed and in name by the name of **The Amicable Society for a Perpetual Assurance Office :***

[Them by that name we incorporate for ever, with perpetual succession and power in law to purchase and enjoy manors lands &c. not exceeding the yearly net value of £2000, and any goods, and to dispose of the same ; to plead and be impleaded and to have a common seal] :

And We do hereby ordain declare and direct for Us our heirs and successors that all and every person and persons who shall hereafter be admitted members of the said Amicable Society according to the powers and authorities hereby granted, shall be and be esteemed members of the same Corporation hereby constituted, And We do hereby for Us grant declare and appoint that the whole number of the persons intended by virtue of these presents to be incorporated as aforesaid do not exceed at one time two thousand but may consist of any less number :

And that every of the said before named persons who shall be

admitted into the said Society as aforesaid shall and may pay upon his or her life six pounds four shillings of lawful English money *per annum* as is hereinafter mentioned,<sup>1</sup> on whose decease the nominee or nominees of every respective member or their respective executors administrators and assigns shall be intituled to and receive the dividends hereinafter mentioned to be made to such nominee or nominees :

And that every subscriber or member may have power from time to time as often as he or she shall think fit to change his or her nominee or nominees upon delivering up his or her former policy, paying for his or her new policy two shillings only :

And further also that each and every of the said first two thousand subscribers and persons to be admitted into the said Society shall at the time of his or her receiving a policy from the Register of the said Amicable Society or his Deputy, except in cases of transferring or changing the policy, well and truly pay or cause to be paid to the person who shall for the time be Register to the said [Society] the sum of five shillings of lawful English money as and for the entrance-money for the sole use and benefit of such Register, And also the sum of five shillings of like lawful English money into the joint stock or fund of the said [Society] for the sole use and benefit of the same Corporation, And that after two thousand persons with the persons before named shall be admitted into the said Society, every new member that shall be admitted into the place of such as die shall pay ten shillings to the joint stock and shall also pay or cause to be paid yearly and every year, accounting from the respective times of naming such respective nominees, the sum of six pounds four shillings of lawful English money for the purposes hereafter mentioned, the said four shillings to be paid quarterly, and the said six pounds to such person or persons as the Directors shall appoint from time to time to receive the same at and by twelve equal payments upon every first Thursday in each calendar month or within ten days then next ensuing or by four quarterly equal payments at the four most usual Feasts in the year or otherwise as the Directors of the said [Society] for the time being shall think fit to appoint :

At which time or times of payment as aforesaid each member making such payment shall and may receive, and We do hereby for Us our heirs and successors strictly require and command the said [Society], without fee or reward to be paid for the same, to cause to be delivered to the respective subscribers, one policy of assurance under the seal of the Corporation intituling each respective nominee or nominees to such dividend or dividends and in such manner and form as hereinafter mentioned :

<sup>1</sup> As to this flat rate, see *ante*, pp. cxxi.-cxxii.



[Twelve members to be Directors of the Amicable Society : *Alleyn, Ayloffe, Branthway, Broughton, Carpenter, Clements, Harris, Higges, Mount, Peirson and Ward* of St. Clement's Lane, nominated Directors, to hold office till March 25 next or further election ; to be sworn : oaths before office to be taken before *John Hartley* Stationer (power to administer) who is to be first Register for life] : And in case the said *John Hartley* shall die before the term of the expiration of fourteen years, to commence and be computed from the day of the date of these presents, Then our will and pleasure is and We do hereby for Us our heirs and successors grant and ordain that the executors administrators and assigns of the said *John Hartley* and his her or their deputy or deputies, for whom he she or they shall also be answerable and who shall be approved by the Directors for the time being of the Society, shall exercise and enjoy the said office of Register of the [Society] for and during the remainder of the said term of fourteen years which shall be then to come and unexpired, And further also that it shall and may be lawful to and for the said *John Hartley* during his life and also for his executors administrators and assigns in case he shall die at any time before the expiration of the said term of fourteen years as aforesaid, during so many years of the said term to come and unexpired, to demand and receive of and from the said [Society] a salary payable quarterly at the four most usual feasts or terms in the year of two hundred pounds per annum if only one thousand persons, and three hundred pounds *per annum* if two thousand persons, become members of the said Society besides the five shillings entrance money of the first two thousand members :

And We do hereby for Us our heirs and successors grant ordain and appoint that one full sixth part only of the first six pounds annual contribution money of all the members of the said Amicable Society and no more shall be duly paid to and amongst all and every such nominee and nominees of the member and members of the said [Society] their respective executors administrators and assigns, who respectively shall die in the first year to be computed from the five and twentieth day of March now last past in equal shares and proportions, And that four thousand pounds of lawful English money shall be duly paid and equally divided to and amongst all and every such nominee or nominees of the member and members of the said [Society] their respective executors administrators or assigns who respectively shall die in the second year, *videlicet* the year of Our Lord Christ one thousand seven hundred and seven, And that six thousand pounds [be divided similarly for the year 1708, and £8000] in every year then next ensuing :

But, in case there shall not be two thousand subscribers, then in

each year such part of the said annual payments of six thousand pounds to be paid by the subscribers shall be distributed in manner aforesaid as shall be a just proportion to the respective sums hereby appointed to be distributed in case there shall be two thousand subscribers :

And further also that the remainder of the monies which shall be so contributed and paid as aforesaid shall, together with such interest increase or improvement as shall arise accrue or be made thereof or thereby or shall arise or be received from annuities to be granted by the said Amicable Society to their own members only, be reserved and empowered by the said Amicable Society for the sole use and benefit of all and every the members of the same Corporation according to their respective interests therein :

[Directors (quorum of seven) may meet within London, Westminster or their suburbs, and there hold Courts ; the Court of Directors to manage business according to rules by-laws &c. made by majority in General Court (quorum of 20 members) ; power to make such rules &c., with reasonable penalties to the use of the Society, if] reasonable and not repugnant or contrary to the laws or statutes of this our Realm or to the prejudice of any other Company or Corporation ; [Power to choose annually twelve members] which at that time shall live and inhabit within the Bills of Mortality, to be Directors [for one year ; four Directors annually to be continued in office] to instruct the rest of the new elected Directors in the government and management of the affairs of the [Society] :

[Power to replace Directors who die or abuse their position, or refuse the oath] after being twice requested in that behalf :

[Power at Courts to appoint a Director as Chairman, with casting vote ; no one else to have more than one vote, whatever his share or interest ; new Directors to take oath before old, &c.] :

[Power to Directors to hold meetings, transact affairs], and approve or reject any subscription or subscriptions of any person or persons who shall offer to pay or subscribe any sum or sums of money to the joint stock or fund of the said Corporation as to the said Directors or the major part of them shall seem convenient ; [power to choose or remove inferior officers &c.] :

And We do hereby further for Us our heirs and successors grant and declare that it shall and may be lawful for every member of the said Amicable Society who shall be then living in the country or be otherwise absent to depute from time to time by writing under his or her hand and seal some known person residing within the Bills of Mortality to be his or her attorney to transact and perform all matters for him or her relating to his or her interest in the said Society as fully and effectually



as if he or she were actually present, except only concerning any election of a Director or Directors of the said Amicable Society :

And We do hereby for Us our heirs and successors strictly require and command the said [Society &c]. that they keep or cause constantly to be kept as occasion require, one or more register or entering book or books wherein shall be fairly entered and written all and every the names titles ages and places of abode of the several subscribers now and for the time being to the joint stock or fund of the said Corporation and of the respective nominees of such members and all and singular sum and sums of money which from time to time shall be received and paid, and the time when and the names of each person to whom such sum or sums shall be paid, to which book or books all and every person or persons having any title share or interest in or to the joint stock of the said Amicable Society or in or to any dividend thereof shall and may from time to time and at all seasonable times have recourse and inspection without any fee gratuity or reward to be paid or given for the same :

And We do hereby for Us our heirs and successors require and command that every nominee or nominees of every member or members of the said [Society] do produce or cause from time to time to be produced a regular and authentic certificate to the Director of the said Amicable Society of the death of the member or members of the said Corporation whose nominee or nominees they are or shall be respectively, the place where and the time when such member or members died, and that thereupon the said certificate shall be filed and produced by the Register of the said Amicable Society for the time being or some other person belonging to the said Corporation to any member or members of the same Corporation if required at the end of every year :

[Power to purchase and enjoy &c.] by and out of such money as shall or may from time to time arise by and be reserved to the joint stock or fund of the said Amicable Society over and above the annual dividends to be made as aforesaid to any the nominees of the members of the said Amicable Society on the deceases of such members whose nominees they are, any manors messuages [lands &c. in England Wales and Berwick-on-Tweed], whether the same shall be held of Us our heirs and successors or of any other person or persons whatsoever, for the sole use and benefit of the said Amicable Society and their successors, not exceeding the clear yearly value of two thousand pounds of lawful English money in all issues above reprises : [power to our subjects to convey the same] :

[Judges Justices &c. to be favouring aiding &c.] :

[Power to make and raise increase and diminish a joint stock, and to receive the benefit &c.] :

*Provided always*, and for the effectual preventing the said [Society] hereby incorporated from intermeddling or interfering with the business or affairs of the Corporation of the Governor and Company of the Bank of England<sup>1</sup> and from banking and dealing in any trade or merchandise, our will and pleasure is and We do hereby direct and command that the said Society shall not at any time hereafter discount or deal in Bills of Exchange or Inland Bills or Notes nor shall receive monies or keep the accounts or cash of any person or persons other than their own proper money accounts and cash being the real produce of their joint stock or fund or such monies as shall be paid to them for the purposes herein mentioned, Nor shall deal in banking nor any ways use the banking trade or business, Nor shall upon their common seal, nor by their cashiers officers or servants or any other person on their behalf give or issue out any Bills or Notes payable upon demand for the loan of money with or without interest, Nor shall advance or lend any money at interest upon any account or pretence whatsoever [except in dealing with their own moneys as abovesaid], Nor shall by way of trade or merchandise directly or indirectly buy or sell or deal in any bullion gold or silver or any goods wares or merchandise : <sup>2</sup>

And in case the said [Society] do or shall at any time hereafter discount or deal in Bills of Exchange or Inland Bills or Notes or shall receive the monies or keep the accounts or cash of any person [except as aforesaid] or shall deal in banking or any ways use the banking trade or business, or shall either upon their common seal or by their cashiers officers or servants or any other on their behalf give or issue out any Bills or Notes payable on demand for the loan of money with or without interest or shall advance or lend any money at interest upon any account or pretence whatsoever (except the monies arising out of and of the real produce of their own joint stock or fund) or shall by way of trade or merchandise directly or indirectly buy sell or deal in any bullion gold or silver or any goods wares or merchandises whatsoever, That then and in any of the said cases our will and pleasure is, and We do hereby reserve to our selves our heirs and successors full power and absolute authority by our or their Order in our or their Privy Council, at any time after three months' notice to the said Corporation, to determine this our present Charter and the Corporation thereby made created or erected, and from three months after such Order of Council made in any of the said cases this our present Charter and the Corporation hereby made shall cease determine and be utterly null and void to all intents and purposes whatsoever :

And in case the said [Society] shall contrary to the restrictions before

<sup>1</sup> See *ante*, pp. cxv.-cxvi.

<sup>2</sup> Cf. the clause, *post*, p. 262.



mentioned offend in any matter aforesaid in any particular or particulars exceeding the sum or value of five hundred pounds within the compass of any one year to be reckoned from Lady Day yearly, That then the Attorney General of Us our heirs or successors for the time being shall and is hereby authorised and directed by virtue of these presents without further warrant or order from Us our heirs or successors, at the request and at the costs of the Governor and Company of the Bank of England, by *scire facias* or information or otherwise as the law shall allow of, prosecute the said [Society] for such offence and breach of any the restrictions aforesaid and to procure these our Letters Patents and the Corporation hereby created by judgment thereon to be determined and made void :

[Directors, when taking oath for faithful discharge of duty, shall also take an oath] for the true and careful observance of the said restrictions [&c.] :

[These letters patent to be valid, and favourably construed &c.] :

In witness &c., witness our self at Westminster the xxvth day of July  
by writ of Privy Seal.

## CHARITABLE CORPORATION<sup>1</sup>.

(Patent Rolls, 6 Anne, pt. iii.)

ANNE by the Grace of God &c., To all to whom these presents shall come, Greeting :

Whereas our trusty and beloved subject *William Higgs*, gentleman, hath by his Petition humbly represented unto Us that, the poor and necessitous people of England being very much oppressed by the extravagant interest exacted from them by such as lend small sums upon money upon pawns, he hath invented a new method of supplying such poor people upon fair and easy terms by a joint stock to be raised by charitable persons, and hath humbly prayed Us so far to countenance this charitable undertaking as to grant our Letters Patent for incorporating him the said *William Higgs* with such others as are hereinafter named, and to invest them with such usual legal powers and privileges as may enable them to carry on the same by the name of the Charitable Corporation for Relief of Industrious Poor by Assisting them with Small Sums upon Pledges at Legal Interest,

Now know ye that We, being very desirous to promote and encourage

<sup>1</sup> See Introduction, *ante*, pp. cxvi.-cxvii.

all endeavours and undertakings tending to the relief and redress of our indigent subjects, and being graciously pleased to gratify the said *William Higgs* in his said request, and to encourage the pious and charitable undertaking aforesaid, *of our especial grace certain knowledge and mere motion* have granted constituted declared and appointed, and by these presents for Us our heirs and successors do grant constitute declare and appoint, that our trusty and wellbeloved subjects *Anthony Bowyer* Esquire, *John Chamberlaine* Esq., *Ichabod Tipping*, Doctor in Divinity, *Joseph Shaw* Esq., *John Oneby*, gentleman, *Jacob Bouell*, Merchant, *John Fortescue* Esq., *Joseph Moxon* Esq., *Charles Wood* Esq., *Ebenezer Sadler*, gentleman, *John Rawlinson* Esq., *Roger Smith* Esq., *Arthur Farewell* Esq., *Thomas Bromfield*, Gent., *Henry Salter*, Gent., *William Stafford*, Gent., *Thomas Samson*, Gent., *Henry Shute*, Clerk, *George Shelley*, Gent., *George Wilcox*, Gent., *William Lancy*, Gent., *John Knight*, Gent., *John Booth*, Mercer, *John Wade*, Mercer, *John Smith*, Brazier, *Thomas Green*, Carder, *William Watts*, Joiner, *Dorothy Lady Altham*, *Dame Mary Fleetwood*, widow, *Hannah Brownsworth*, *Lettice Cranford*, widow, and the said *William Higgs*, and all and every other person and persons who shall be a subscriber or subscribers to the fund or joint stock aforesaid according to the directions hereinafter contained, and who also shall have paid his her or their respective subscription monies accordingly, and all and every person and persons who as executors administrators successors or assigns or by any other lawful title derived or to be derived from by or under the said original subscribers at any time or times hereafter shall have or be entitled to any part share or interest of in or to the said fund or joint stock or any part thereof, so long as they respectively shall have any share or interest in the joint stock or fund of the Corporation hereby created, the whole not to be less at any time than the sum of twenty thousand pounds, shall be and be called one body corporate and politic of themselves in deed and in name by the name of **The Charitable Corporation for Relief of Industrious Poor by Assisting them with Small Sums upon Pledges at Legal Interest:**

[By that name to be corporate for ever etc., with perpetual succession etc., and power to] have take and receive of and from any our poor subjects any such goods wares pawns or pledges as they shall desire to lay in pawn and to advance and lend upon the same such sum and sums of money as shall be thought reasonable and agreed upon, such goods pawns or pledges being redeemable nevertheless at such time and times as shall be agreed upon in that behalf by the repayment to the said Corporation of the principal and interest money not exceeding the rate of six pounds *per centum per annum* for the respective sums so to be lent,



And further [power to] have take and accept as for and in the name of pawns and pledges any goods whatsoever :

[Power to plead and be impleaded etc., and to have a common seal] :

[And that all persons hereafter admitted members of the Corporation] according to the powers and limitations hereby granted and herein contained shall be and be esteemed members of the said Corporation hereby constituted, But that no person shall be or continue a member of the said Corporation longer than he or she shall have a share or interest in the said joint stock or fund :

And We do hereby for Us our heirs and successors ordain and appoint that there shall be from henceforth seven persons members of the said Charitable Corporation to be named constituted elected and appointed in such manner and form as is hereinafter expressed, who shall be and be called the Committee of the Charitable Corporation [etc.] :

And [We nominate] the said *Anthony Bowyer, John Chamberlaine, Ichabod Tipping, Joseph Shaw, John Oneby, Jacob Bouuell and William Higgs* to be the first and present Committee of the said [Corporation, to continue for such time as a General Court may decide : power to replace them upon death or removal : the Committee to] be liable and subject to be removed from the same office in such manner as the members of the said Corporation as aforesaid shall by majority of votes order and direct :

[The Committee, before admission to office, to take their] corporal oaths for the due and faithful performance of their respective offices and trusts before the said *Roger Smith, John Fortescue and Thomas Bromfield*, or any two or more of them : [power to the same to administer oath] :

[Power to the Committee, or any three or more of them, to assemble and hold Courts and treat of matters relating to the Corporation and its joint stock], and also to hear and determine all controversies that shall or may in any wise happen thereupon, [provided that such meetings be held only on days agreed upon by a majority of votes in General Court : all the Committee to be summoned to attend every Court] :

[Power to] raise by voluntary subscriptions a joint stock [etc.], which shall not at any time, without licence first had and obtained in that behalf from Us our heirs or successors under our or their Privy Signet and Sign Manual, exceed the sum of thirty thousand pounds : [the Corporation to] have and receive the benefit and advantage of the said joint stock or fund to the use of the said [Corporation] according to such charges and proportions as the members of the said Corporation or any of them have hath or shall have in the joint stock or fund aforesaid :

And [the Corporation shall] provide keep and lay open, or cause to

be provided kept and laid open as occasion shall require, one or more book or books wherein shall be fairly entered and written all and every the names titles and places of abode of the several subscribers now and for the time being to the joint stock [etc.], and all and every sum and sums of money which from time to time shall be subscribed received and paid, to which book or books all and every person and persons having any title share or interest in or to the joint stock or fund of the said Charitable Corporation, or in or to any dividend of interest arising thereby, shall and may from time to time and at all seasonable times have recourse and inspection without any fee gratuity or reward to be demanded given or paid for the same :

*Provided always*, and our express will and pleasure is, that in case the full and whole sum of twenty thousand pounds be not as well actually paid as subscribed as and for a joint stock and fund of the said Charitable Corporation within the space of eighteen months next ensuing the date of these presents for and in order to relieve industrious poor [etc.] according to the true intent and meaning of these our Letters Patents, or in case that at any time from and after the end or other expiration of the said eighteen months the said joint stock [etc.] shall be less than the said sum of twenty thousand pounds, then and in either of the said cases our will and pleasure is, and We do hereby reserve full power and authority to Us our heirs and successors by our or their order in our or their Privy Council at any time to declare, that these our Letters Patents and the Corporation hereby made shall, from the end of twelve months next after such declaration, cease determine and be utterly void, and from twelve months next after such declaration made as aforesaid in Council in either of the said cases this our present Charter and the Corporation hereby constituted shall cease determine and be utterly void to all intents and purposes, anything herein contained to the contrary hereof in any wise notwithstanding :

[Power to] procure have and use such and so many houses shops rooms and warehouses in any place or places within the weekly Bills of Mortality as they by majority of votes in a General Court shall approve and think convenient, for the receiving keeping and preserving their joint stock or fund and also all such goods and wares as shall from time to time be left in pledge or pawned to the said Charitable Corporation :

[The Corporation shall keep] one or more register or entering book or books, wherein shall be fairly entered and written the names natures kind and quantities of all and singular such goods pawns or pledges as shall be brought by any borrower or borrowers to be pawned :

And that all and every such goods wares or merchandises as shall



from time to time be pawned as aforesaid to the said Charitable Corporation shall be carefully preserved and kept by the warehousekeeper or warehousekeepers of the said Corporation in some convenient warehouse or warehouses or other convenient places within the weekly Bills of Mortality : <sup>1</sup>

And that a reasonable value of all and singular such goods or wares so pawned or left in pledge as aforesaid shall be agreed and settled by and between the borrower and warehousekeeper aforesaid, whereby it may appear that each and every of the goods so pawned is a sufficient security for the same sum lent upon the pledge thereof together with interest that shall grow due thereupon not exceeding the rate of six pounds *per centum per annum* :

And that every such warehousekeeper do and shall from time to time give a note in writing to every borrower, expressing and describing the aforementioned to be agreed value of the goods or wares which he or she shall leave in pledge or pawn, and also mentioning the sum of money which shall be then lent or advanced upon such pawned goods by the said Charitable Corporation :

And further also that all the notes which shall be given or delivered to each such borrower as aforesaid shall from time to time be entered in some book or books for that purpose by the bookkeeper and bookkeepers of the said Charitable Corporation :

And that after every such entry of such aforesaid note shall be so made, each and every borrower shall and may bring such note to the Cashier of the said Charitable Corporation [etc.] who shall file the same note and pay the money and also give and deliver another note for and on behalf of the said Corporation to the borrower, entitling him or her or the bearer or bearers of such notes to the redemption of his or her goods or pledge upon repayment to the said Charitable Corporation or their Cashier the principal money that shall have been advanced and lent to the borrower and also interest money not exceeding the rate of six pounds *per centum per annum* :

And further also that when and so often as any borrower shall be minded and offer to pay the moneys that shall have been lent and advanced to him as aforesaid together with such interest as aforesaid, he or she shall and is hereby commanded to deliver up his or her said note given to him or her by the Cashier of the said Charitable Corporation, and also to take back the said note that shall first have been given by the warehousekeeper as aforesaid, and upon redelivering the same note to the warehousekeeper with a receipt thereupon endorsed for what goods shall be then redelivered every borrower in such case is to

<sup>1</sup> See *ante*, p. cxxi. (4).

have and receive his or her goods again without any damage or prejudice wittingly or willingly done or suffered to be had done or committed thereunto :

And We do hereby for Us our heirs and successors strictly require and command the said [Corporation] to permit and suffer from time to time the goods in pawn of every borrower to be shown and produced to any chapman at all office houses as often as any borrower shall desire the same :

And further also to permit and suffer from time to time and at all convenient times any person or persons requiring or desiring the same to view and see any of the goods that shall from time to time be pawned as aforesaid, whereby to prevent the said Corporation from lending money on any stolen goods :

And forasmuch as the said undertaking to relieve industrious poor [etc. as above] in the manner herein expressed will at the time of first settling and establishing the same be chargeable, and also require the constant keeping and maintaining many offices and warehouses as also the diligent attendance of officers for putting in execution the intents and purposes herein mentioned together with certain charges and expenses for Stamp Duty and Bills of Sale, our will and pleasure therefore is and We do hereby for Us our heirs and successors grant unto the said [Corporation] full power and authority to agree upon and ascertain the reasonable costs and charges to be paid by the respective borrowers for storing keeping and preserving all goods which shall be pawned to the said Corporation, and also to agree upon and ascertain the charges to be paid by the respective borrowers for the making of all manner of securities for repayment of monies which shall be lent as aforesaid and interest which shall grow due thereupon :

And our royal will and pleasure is, and We do hereby for Us our heirs and successors strictly require and command the said [Corporation], when and as often goods shall by failure of redemption thereof become legally forfeited to the said Corporation and be to be sold by them, that such sales be made by way of auction (due and public notice being first to be given and published thereof) :

And if at any time by sale of such goods there shall remain a surplus of monies more than will pay and satisfy the principal and interest money then due and owing upon such goods as shall be sold as aforesaid and the reasonable charges, We will and command for Us our heirs and successors that such overplus shall immediately be paid to the prime owner of the said goods or bearer of the said notes given by the Cashier of the said [Corporation] :

[Power, within next ten days and thenceforth as thought fit, to



assemble in London, Westminster or the suburbs, and hold Courts : every such Court to be called a General Court : power to the majority thereat to manage the business according to this Charter or according to such reasonable rules and by-laws as they may agree upon : power in such Court (quorum of seventeen members) to make reasonable by-laws and impose reasonable penalties, the latter to be received to the use of the Corporation without any account to be rendered to Us ; power to alter or annul the by-laws] and to mitigate the forfeiture on the same as they shall find cause : [by-laws and penalties to be reasonable and not repugnant to the law of the Realm, nor to the prejudice of any other Corporation] :

[Power, within next ten days or subsequently in General Court, to choose Cashiers Bookkeepers Warehousekeepers or other inferior officers, and to remove and replace them] :

[Our Judges, Justices of the Peace, Mayors, Sheriffs etc. to be favouring aiding and assisting &c.] :

*Provided always*, and [to prevent the Corporation from intermeddling with the business of the] Bank of England, and from banking, and also from dealing in any trade or merchandise, and from dealing in buying and selling any goods (other than in taking pawns and in selling such pawned goods as shall become forfeited in failure of redemption), and from keeping any other Cash Bank or Stock besides the Bank or Stock of the Corporation hereby constituted, [the Corporation shall not discount or deal in Bills or Notes, or receive monies or keep any accounts or cash] (other than their own proper monies accounts and cash being their own joint stock or fund), [nor deal in banking etc., or issue any Bills or Notes etc.] (except such notes as shall be given by the Cashier of the said Corporation for monies to be lent by the said Corporation upon goods to be pawned to them), nor shall advance nor lend any monies at interest upon any account or pretence whatsoever (except the monies of their own joint stock or fund to be by them raised as is hereinbefore limited and expressed), nor [deal in bullion etc., or goods etc.],\* other than such pawned goods wares or merchandises as shall in failure of redemption become forfeited to the said Charitable Corporation :

And [if the Corporation disobeys any of these several prohibitions, power reserved upon twelve months' notice to avoid and determine the Charter and Corporation\*] :

*Provided always* that if it shall appear to Us our heirs or successors in our or their Privy Council that these presents or the Corporation

\* As in Amicable Society's charter, *ante*, p. 255.

hereby erected and constituted are or is prejudicial or inconvenient to or for the public and not beneficial to the poor, and shall be so declared by Us our heirs and successors in our or their Privy Council, then and in such case it may be lawful for Us our heirs and successors at any time after six months' notice thereof given to the said Corporation hereby constituted by writing under the Great Seal of Us our heirs or successors to revoke and determine this our present Charter and the Corporation hereby erected : [these Letters Patents and the Corporation shall then cease utterly :]

[Validity and favourable construction clause] :

In witness etc., witness our self at Westminster the twenty second day of December.

*by writ of Privy Seal.*





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# R U L E S

1. The Society shall be called the Selden Society.
2. The object of the Society shall be to encourage the study and advance the knowledge of the history of English Law, especially by the publication of original documents and the reprinting or editing of works of sufficient rarity or importance.
3. Membership of the Society shall be constituted by payment of the annual subscription, or, in the case of life members, of the composition. Form of application is given at the foot of page 322.
4. The annual subscription shall be £1. 1s., payable in advance on or before the 1st of January in every year. A composition of £21 shall constitute life membership from the date of the composition, and, in the case of Libraries, Societies, and corporate bodies, membership for 30 years.
5. The management of the affairs and funds of the Society shall be vested in a President, two Vice-Presidents, and a Council consisting of fifteen members, in addition to the *ex-officio* members. The President, the two Vice-Presidents, the Literary Director or Directors, the Secretary, and the Treasurer shall be *ex-officio* members. Three shall form a quorum.
6. The President, Vice-Presidents, and Members of the Council shall be elected for three years. At every Annual General Meeting such one of the President and Vice-Presidents as has, and such five members of the Council as have, served longest without re-election, shall retire.
7. The five vacancies in the Council shall be filled up at the Annual General Meeting in the following manner: (a) Any two Members of the Society may nominate for election any other member by a writing signed by them and the nominated member, and sent to the Secretary on or before the 14th of February. (b) Not less than fourteen days before the Annual General Meeting the Council shall nominate for election five members of the Society. (c) No person shall be eligible for election on the Council unless nominated under this Rule. (d) Any candidate may withdraw. (e) The names of the persons nominated shall be printed in the notice convening the Annual General Meeting. (f) If the persons nominated, and whose nomination shall not have been withdrawn, are not more than five, they shall at the Annual General Meeting be declared to have been elected. (g) If the persons nominated, and whose nomination shall not have been withdrawn, shall be more than five, an

election shall take place by ballot as follows : every member of the Society present at the Meeting shall be entitled to vote by writing the names of not more than five of the candidates on a piece of paper and delivering it to the Secretary or his Deputy, at such meeting, and the five candidates who shall have a majority of votes shall be declared elected. In case of equality the Chairman of the Meeting shall have a second or casting vote. The vacancy in the office of President or Vice-President shall be filled in the same manner (*mutatis mutandis*).

8. The Council may fill casual vacancies in the Council or in the offices of President and Vice-President. Persons so appointed shall hold office so long as those in whose place they shall be appointed would have held office. The Council shall also have power to appoint Honorary Members of the Society.

9. The Council shall meet at least twice a year, and not less than seven days' notice of any meeting shall be sent by post to every member of the Council.

10. The Council may appoint a Literary Director or Directors, a Secretary, a Treasurer, and such other officers as they shall from time to time think fit, to hold office during the pleasure of the Council ; and may from time to time prescribe their respective duties ; and may make any arrangements for the remuneration of any officer which they may from time to time think reasonable.

11. It shall be the duty of the Literary Director or Directors (but always subject to the control of the Council) to supervise the editing of the publications of the Society, to suggest suitable editors, and generally to advise the Council with respect to carrying the objects of the Society into effect.

12. Each member shall be entitled to one copy of every work published by the Society as for any year of his membership. No person other than an Honorary Member shall receive any such work until his subscription for the year as for which the same shall be published shall have been paid. Provided that any member may be supplied with any publications on such terms as the Council may from time to time determine.

13. The funds of the Society, including the vouchers or securities for any investments, shall be kept at a Bank, to be selected by the Council, in the name of the Society. Such funds or investments shall only be dealt with by a cheque or other authority signed by the Treasurer, and countersigned by one of the Vice-Presidents or such other person as the Council may from time to time appoint.

14. The accounts of the receipts and expenditure of the Society up to the 31st of December in each year shall be audited once a year by two Auditors, to be appointed by the Society, and the report of the Auditors, with an



abstract of the accounts, shall be circulated together with the notice convening the Annual Meeting.

15. An Annual General Meeting of the Society shall be held in March 1896, and thereafter in the month of March in each year. The Council may upon their own resolution, and shall on the request in writing of not less than ten members, call a Special General Meeting. Seven days' notice at least, specifying the object of the meeting and the time and place at which it is to be held, shall be posted to every member resident in the United Kingdom at his last known address. No member shall vote at any General Meeting whose subscription is in arrear.

16. The Secretary shall keep a Minute Book wherein shall be entered a record of the transactions, as well at Meetings of the Council as at General Meetings of the Society.

17. These rules may upon proper notice be repealed, added to, or modified from time to time at any meeting of the Society. But such repeal, addition, or modification, if not unanimously agreed to, shall require the vote of not less than two-thirds of the members present and voting at such meeting.

*March 1909.*

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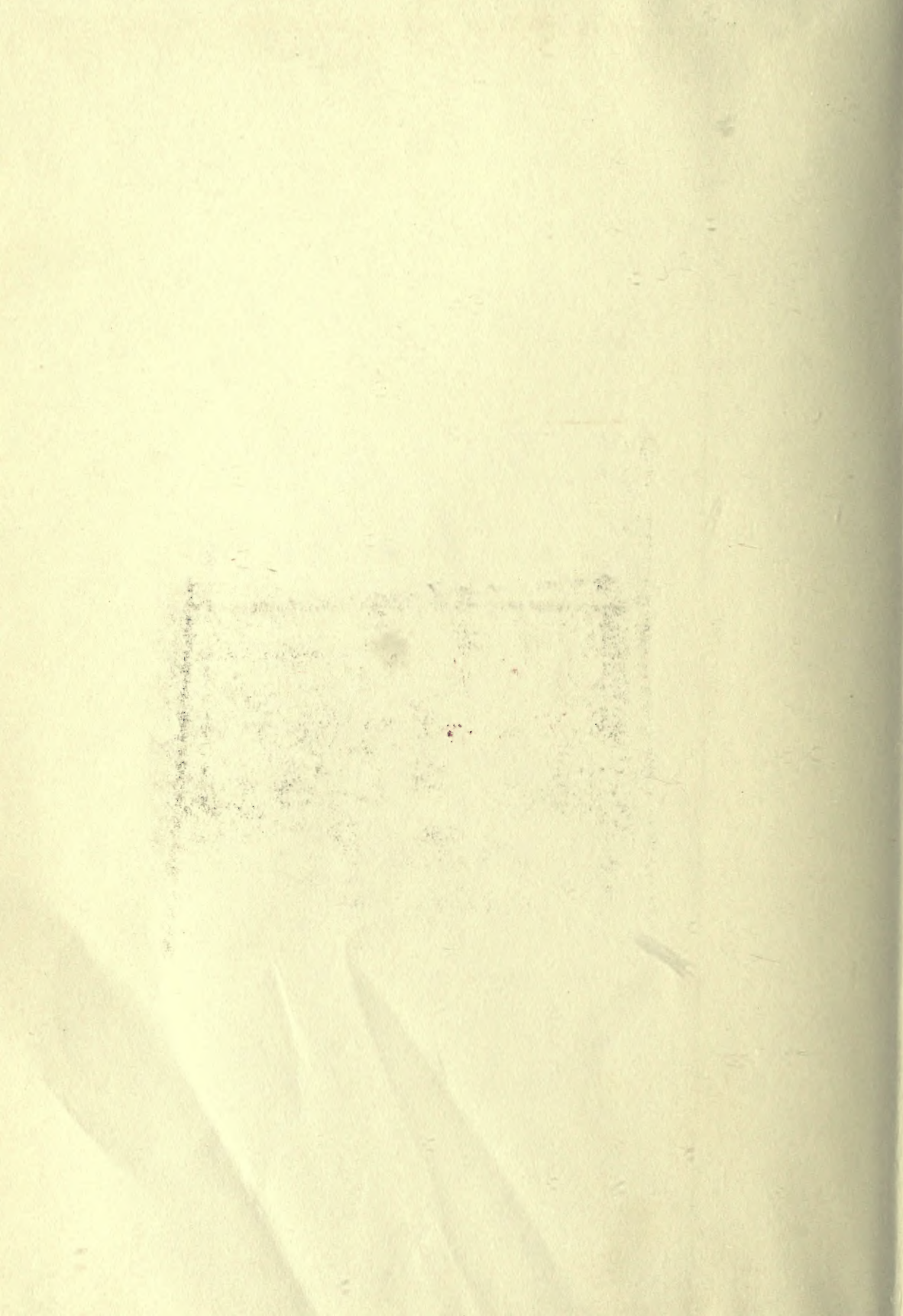












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